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PROTECT YOURSELF UNDER THE FELA

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LAW OFFICES, P.C.

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ML MyersLafferty Law Offices is providing this Handbook to help protect your rights in case you become injured on the railroad. Keep this Handbook in a place that is readily accessible to you and your loved ones.

FEDERAL EMPLOYERS' LIABILITY ACT OF 1908 (FELA)

Many railroad workers believe that their right to recover for work-related injuries is governed by workers' compensation statutes which provide compensation only for lost time and wages. In fact, however, injured railroaders are protected by the **Federal Employers' Liability Act of 1908 (FELA)** which entitles them to receive much more than lost time or wages.

FELA Gives Injured Railroaders the Right to Sue Their Employer and Recover Damages for:

- Lost wages, both past and future
- Out-of-pocket medical expenses that were not paid for by the railroad
- Compensation for pain, suffering and the loss of life's pleasures
- Any scarring or disfigurement

FELA Does Not Provide Compensation Unless the Railroad was Somehow at Fault in Causing an Injury. Unlike no-fault workers' compensation statutes, the FELA requires proof that the railroad was negligent, or that a defective condition on railroad property or equipment contributed to the accident. In addition to the FELA, railroad workers are protected by:

- **The Federal Safety Appliance Act** makes railroads responsible for injuries (regardless of negligence) caused by defective couplers, insecure grab irons, ladders or steps, and malfunctioning hand and air brakes.
- **The Federal Boiler Inspection Act** makes railroads responsible (regardless of negligence) for injuries caused by certain defects and dangerous conditions on locomotives.

The Statute of Limitations under the FELA is Generally Three (3) Years. This means that the lawsuit must be started within three (3) years of the accident date.

The Statute of Limitations for Certain Occupational Diseases, (i.e. asbestos poisoning) where it is unclear when an "injury" occurred, is **three (3) years from the time the condition is discovered.**

FELA Entitles Railroad Workers to Have Their Claims Decided by a Jury.

"Injured workers or their families often fall prey on the one hand to persuasive claims adjusters eager to gain a quick and cheap settlement for their railroad employers, or on the other to lawyers either not competent to try these lawsuits against the able railroad counsel or too willing to settle a case for a quick dollar."

JUSTICE HUGO L. BLACK
UNITED STATES SUPREME COURT, 1964

WHAT TO DO IF YOU ARE INJURED

Immediately Report the Accident to Your Supervisor

even if you think you are not injured. If you wait, the railroad may charge you with failing to report an accident, or possibly falsifying one.

Fill Out the Accident Report/Injury Statement

Most railroads require an injured employee to immediately fill out and sign an Accident Report or Injury Statement. However, if you cannot think clearly, or are in too much physical pain, do not fill out or sign the Report/Statement. This can be done later.

Keep Your Statements Brief but Make Sure to Describe the Railroad's Negligence in the Accident Report/Injury Statement.

Because the FELA requires proof that the railroad was at fault for the accident, it is important that you *spell out what the railroad did wrong, or what was wrong with the railroad's property, tools and equipment.*

- For example, if you get hurt because a switch jammed or the ballast gave way, write it on the Accident Report/Injury Statement.

If someone else prepares the Accident Report/Injury Statement for you, make sure you read it carefully and that they record the dangerous condition, defective equipment, or action that caused your accident.

Do Not Answer "No" to Questions on the Report that Deal with Equipment Defects. Answer "yes" (describe the defect) or, because defects sometimes are not obvious or visible at the time of injury, answer "presently unknown".

Carefully Read and Answer the Questions Before Signing the Report/Statement. The questions are usually designed to help the railroad avoid responsibility.

Keep a Copy of the Accident Report/Injury Statement and Any Other Form that was Filled-out in Connection with Your Injury.

Do Not Sign Any Documents Other than the Accident Report/Injury Statement. The Accident Report/Injury Statement is the only form you are required to complete.

Do Not Make Any Oral or Written Statements Other than the Accident Report/Injury Statement without first speaking with your FELA Attorney or Union Representative. Refer everyone to the Accident Report/Injury Statement instead.

Promptly Contact Your Union Representative

It is his/her job to help you protect your rights. You have the right to have your Union Representative present whenever you give the railroad an oral or written statement.

Get Immediate Medical Treatment

Obtain the best medical care that you can through your *own* doctors.

Choose Your Own Doctor. Railroad rules may require you to be seen by the railroad's own healthcare providers, but you do not have to treat with those providers. **You have the right to be cared for by any doctor you choose.**

Do Not Let the Railroad Take Control of Your Medical Care by treating with company-selected doctors. These physicians are frequently employed or retained by the railroad, and are usually more interested in protecting the railroad by returning an injured railroader back to work, rather than ensuring proper medical treatment.

Do Not Allow Company Officials to Stay in the Room While You Receive Medical Treatment. This is a violation of doctor-patient privilege. Something might be said in the room that could be used against you later.

Do Not Sign a Medical Release Form to the Railroad without first obtaining legal advice from an experienced FELA Attorney.

Contact an Experienced FELA Attorney Immediately

The railroad starts building its defense to your claim *the minute you report your accident*. **It is important that you protect your legal rights immediately by speaking with a competent FELA Attorney**, who can advise and guide you through the FELA process.

Railroad Claim Agents are Not Your Friends. Railroad claim agents are hired to save the railroad money. They are skilled in handling claims and will attempt to trick you into a cheap settlement. To keep the playing field even, it is best that you hire a qualified FELA Attorney who has experience in negotiating against claim agents.

You Cannot Be Fired or Disciplined for Acquiring Legal Representation. This is your guaranteed right under the FELA.

It is Your Legal Right to Select Any Attorney You Wish to Represent You. Do not allow anyone to pressure you with regard to your choice.

Apply to the Railroad Retirement Board for Sickness Benefits

The RRB Help Line is 1-800-808-0772,
or visit <http://www.rrb.gov>.

RRB Temporary Sickness Benefits

If you are unable to work at your railroad position because you become sick or injured, you have the right to apply for temporary RRB sickness benefits. RRB benefits are paid on a bi-weekly basis. However, you have to pay the RRB back for sickness benefits, from any settlement or judgment you win against the railroad.

RRB Disability Pension

If your injury has permanently disabled you from working, you may be entitled to receive a RRB disability pension. There are two kinds of long-term disability pensions:

- **Total Disability:** If you have at least 10 years (120months) of compensated service, and are permanently disabled from any regular work (not just your railroad occupation), you can receive a total disability pension. A total disability is based upon the same standards used by the Social Security Administration.

- **Occupational Disability:** If you have at least 20 years (240 months) of compensated railroad service, and are permanently disabled from your regular railroad position, you can receive an occupational disability pension. There is an exception to the 20-year requirement if you are at least 60 years old and have at least 10 years of service with the railroad.

Other Important Points

Know Your Rights. If you are unsure of your rights, contact your FELA Attorney or Union Representative.

Prepare Written Details About the Accident for Your Records.**

Include your assignment for that day, when and where you reported to work, what work you performed before the accident, exactly how the accident happened, who witnessed it, what the railroad did wrong, etc.

*****Do not give this record to anyone but your attorney.***

Get the Names and Contact Information of Witnesses to Your Injury. Witnesses cannot be fired or disciplined for providing facts pertaining to your accident or for testifying in court, under the FELA.

Take Timely Photographs of the Defective or Dangerous Equipment, Ground Conditions or Work Environment that caused your injury. *Keep the negatives.*

Promptly Photograph Your Injuries. *Keep the negatives.*

Keep a Written Record of All Treatment Dates, the Nature of Each Treatment, and Any Pain or Limitations you experience due to your injuries.

Keep Track of Missed Work Time, including lost overtime.

Do Not Speak With Any Railroad Claim Agents Without First Consulting Your FELA Attorney. If the Claims Department tries to contact you, tell your attorney at once.

Follow Your Doctors' Directions and respect the medical limitations your physicians place on you so that you recover as fully as possible.

****Note:*** *The railroad will often hire private investigators to follow you and videotape your activities, and then use this against you at trial.*

Contact Your Insurance Company to Begin Receiving Benefits, if you have a disability policy.



MYERSLAFFERTY LAW OFFICES, P.C.

MyersLafferty is an aggressive law firm of experienced FELA attorneys dedicated to railroad workers and their families.

Our attorneys have represented railroaders from every craft on every major railroad on the Eastern Seaboard. We have fought and defeated railroad claims departments and lawyers in state and federal courts, up through the United States Supreme Court.

MyersLafferty's clients are our first priority.

We consider it a privilege and an honor to represent our clients, and make it our mission to treat them with respect, courtesy and attentiveness. Personal service and attention to detail is the basis of our business.

MyersLafferty is committed to winning our clients the compensation they deserve.

MyersLafferty Attorneys have won tens of millions of dollars for our clients, and have earned the reputation as tenacious and successful courtroom advocates. We pride ourselves on being trial lawyers and will not hesitate to bring a case to verdict should the railroad not offer just compensation.

MyersLafferty does not get paid until our clients get paid.

We don't demand retainers or ask for money up front. We don't charge consultation fees. We don't require our railroaders to advance costs. MyersLafferty fronts every dollar necessary to handle our clients' cases. Our clients pay no expenses and no fees until we settle the case or collect on the winning verdict.

MyersLafferty believes in unions.

We proudly sponsor union functions and charities, and are always available to attend and speak at union events. MyersLafferty recognizes and applauds the heroic role unions play in preventing large railroads from trampling the rights of workers.

**To learn more about MyersLafferty
and our winning verdicts**

visit our website at www.MyersLafferty.com

or call us toll free at 888-290-6888

to speak directly with one of our attorneys.

IMPORTANT CONTACTS

MyersLafferty Law Offices, P.C.	888-290-6888
Railroad Retirement Board	800-808-0772
Aetna/US Healthcare	800-842-4044
Aetna/US Healthcare (Dental)	877-277-3368
Met Life	800-310-7770
Paid Prescriptions (Rx)	800-842-0070
Provident Supplemental Sickness	800-542-4231
United Health Care	800-842-5252
Value Option (MHSA)	800-934-7245

UNION REPRESENTATIVE

Contact Name _____
Telephone Number _____

FAMILY DOCTOR

Contact Name _____
Telephone Number _____

DENTIST

Contact Name _____
Telephone Number _____

HEALTH INSURANCE

Contact Name _____
Telephone Number _____
Policy # _____

LIFE INSURANCE

Contact Name _____
Telephone Number _____
Policy # _____

DISABILITY INSURANCE

Contact Name _____
Telephone Number _____
Policy # _____

AUTO INSURANCE

Contact Name _____
Telephone Number _____
Policy # _____

HOME OWNERS INSURANCE

Contact Name _____
Telephone Number _____
Policy # _____

BANK

Contact Name _____
Telephone Number _____
Account #s _____

STOCKBROKER/FINANCIAL PLANNER

Contact Name _____
Telephone Number _____
Account #s _____

The material in this handout is for informational purposes only and does not constitute and should not be relied upon as legal advice. Each person's legal needs are unique, and these materials may not be applicable to your legal situation. No person should act or rely on any information in this handout without seeking the advice of an attorney.

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