

YOUR RIGHTS WHEN YOU ARE INJURED ON THE RAILROAD



Cooper Hurley Injury Lawyers

2014 Granby Street, Suite 200

Norfolk, VA, 23517

(757) 455-0077

(866) 455-6657 (Toll Free)

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A light gray silhouette of a person standing and using a cane with both hands. The person is facing forward, and the cane is positioned on either side of their legs.

**Your Injury,
Our Fight!**

This book is intended to increase your knowledge of your rights if you are hurt in a railroad accident. This book does not constitute formal legal advice or create any type of attorney-client relationship.

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FELA

Congress passed the Federal Employers' Liability Act (FELA) in 1908.

It required railroads to provide a safe work place for employees, and gives rail workers the right to compensation when they are hurt on the job.

Under FELA, injured workers can seek compensation for:

- Past and future lost wages and benefits
- Medical expenses and treatment
- Partial or permanent disability
- Pain and suffering

When a railroad employee is killed on the job, surviving family members may recover wrongful death damages under FELA.

My rights under FELA

If you are injured on the railroad, FELA law entitles you to claim full and fair compensation. The FELA protects your right to:

- Report the injury
- Make your claim
- Hire an attorney, and
- Testify against the railroad in a FELA case.

If the railroad tries to punish you for these actions, then you may have additional claims under the whistle-blower law.



What should I do if I am injured on the job?

Get proper medical care

Seek needed medical attention from the outset. First, your health is the most important thing. Also, if you don't get immediate medical attention, it could cause you problems later because the company will claim that your injury happened some other way unless you tell a doctor how it happened at work from the start.

Report all injuries

The responsibility to report injuries is the employee's. Make a report to your supervisor. Think carefully about what caused the injury and how it could have been prevented. Report relevant accident facts including what caused the accident and how it could have been averted. Mention any unsafe conditions or defective equipment. If you do not know exactly what the railroad did wrong then at least write "unknown," in the box titled "Was employee provided a safe place to work?" Supply names of co-workers and witnesses who can confirm what happened.

Report even minor injuries such as simple sprains or pulled muscles because these injuries may take longer to heal or be worse than you thought at first.

Obtain copies of accident reports

Railroad companies must document reported injuries for the Federal Railroad Administration (FRA). Make sure you ask for copies of all of their reports and other forms and documentation relating to the accident. These forms contain information that can support your case. You have an absolute right to a copy of any statement you gave or form you filled out.

The carrier protects its own interests.

The railroads have an effective process to deal with FELA claims for their benefit. Be aware the company is not on your side when you are hurt on the job. To fight claims, the rail carriers have hired and trained a group of skilled claims agents to investigate injury claims and prepare the railroad's defense to your claim.

They will take statements and photographs and gather other evidence they think is favorable to the company. The agent's role is to keep down the cost of compensation payable to you.

The railroad's claims agent will try to intervene in your medical treatment by saying they'll pay the bills, but only if they are allowed to send their nurse consultant/spy into the doctor's office with you while you're being treated. You do not have to agree to this invasion of your privacy. The railroad claims agent is all the time reporting back to the railroad's law department which is trying to manage your case in a way it can pay you as little money as possible.

If you or a loved one has been hurt on the job, you need to hire an experienced FELA attorney as soon as possible to balance the power. The claims agent is not your friend. They are hired to do a job which includes trying to keep you from hiring an attorney. Make sure you know who is looking out for your best interest and who isn't.

Do I have to be treated by the doctor chosen by the railroad?

No. You have a right to see a doctor of YOUR choice. If you use the company doctor, there's a danger you won't get a fair and unbiased opinion.

A railroad company's doctor reports to the railroad's own lawyers and claims department. It means the railroad could be making the call on the seriousness of your injuries and when you should go back to work.

The railroad may require you to be examined by their doctor, but it can't force you to accept medical treatment from their doctor. It's certainly not in your best interests to sign a medical authorization that will allow the railroad to obtain your medical records. If you do so, they may go and get every doctor's note since you were a baby and try to use whatever they find against you.

What should I discuss with the doctor?

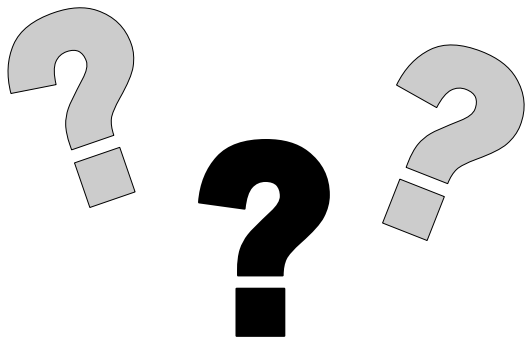
Most physicians have no idea how the railroad works. Describe how you were injured and under what circumstances. Point out how your work caused your injury. By outlining the physical demands of your job, your doctor will be able to tell you more accurately when you can safely return to work. Make sure the doctor knows that there is no "light duty" on the railroad.

Do I have to give a statement to the claims agent?

Claims agents spend their time protecting the financial interest of the railroad. They are skilled at identifying how they can minimize the degree of liability, ensuring you receive less compensation.

The railroad agent will want you to indicate you caused the accident or that the company was blameless.

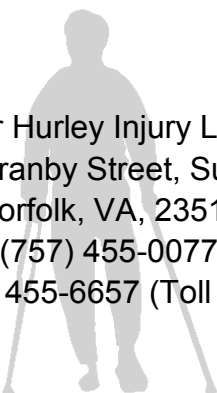
It is in your best interest NOT to give a written or even an oral statement to a claims agent or any other representative of the company without speaking to an attorney first. If you give a statement that differs from the original accident report, it could reduce your eventual damages. When the claims agent calls you after the injury, just tell him politely that you were told not to talk to him by your lawyer.



Hiring a railroad lawyer

You have an absolute right to hire a lawyer. Railroad workers hurt on the job have long recognized the need for experienced and specialized legal counsel to assist in the handling of FELA cases. Our law firm regularly represents injured railroad workers. We have decades of experience helping injured railroaders.

It will not cost you anything to talk to us about a potential claim. The initial confidential consultation is free and with no obligation to hire us. When you hire our firm for a FELA case, you pay nothing up front, as we only get paid at the end of the case as a percentage of the recovery. If you do not get paid, then we do not either.

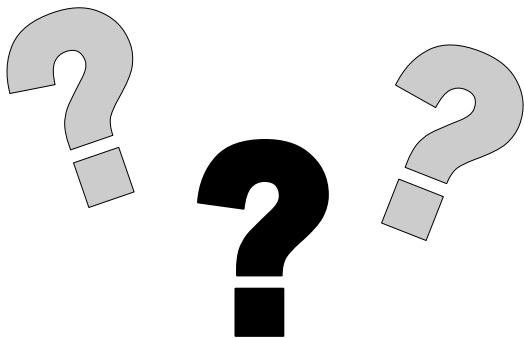
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Can the railroad fire me if I hire a lawyer?

No. FELA protects employees against any threats of retaliation by the railroad companies. Under FELA law it is your right to seek out a lawyer and anyone who threatens or intimidates a person for making an injury claim through an attorney may be punished by imprisonment or fined.

The railroad and its agents realize that you are more likely to get full compensation if you have an experienced FELA attorney, so they try hard to talk you out of seeking a lawyer.



How long do I have after an injury to file a lawsuit against the railroad?

You are given three years from the date of an accident to file an injury lawsuit in court under FELA. The period is the same for a personal injury case or a wrongful death case brought by your family if you are killed in a railroad accident.

But in cases of occupational illness or disease, you may not know the exact date of the injury. In cases involving exposure to chemicals and/or cumulative disorders, you have three years from when you knew or should have known your condition was caused by your work on the railroad. Some employees make the mistake of believing the statute of limitations began when they first saw their doctor, but it can be an earlier date.

Always consult a railroad injury lawyer to find out if you have a claim. Don't forget the railroad will immediately begin its own investigation and start building its defense once they know you are hurt. It's important to meet with an injury lawyer immediately to protect your rights and to meet all deadlines.

Must I prove that the railroad was at fault to win a FELA case?

Although FELA provides a means for injured employees to obtain fair compensation, it does not guarantee payment.

FELA is not like workers' compensation programs in which fault is not at issue. The railroad is not required to pay damages merely because an employee is injured at work. FELA provides for liability based on negligence, meaning the railroad must be shown to have been at fault or in violation of a safety statute such as the Locomotive Inspection Act and at least partially the cause of the injury.

The employee must prove lack of ordinary care by the railroad or its employees to win damages. The neglect could be a lapse in maintenance, or an unsafe work environment on a locomotive, truck or car, an unsafe method of doing a job, like providing insufficient help, or exposure to a hazardous substance like diesel or asbestos after the railroad knew it should correct the problem.

How much can I recover or how much is my family entitled to after a fatal accident?

The amount you are entitled to will depend on:

1. How serious the injury is;
2. Whether the injury was the result of negligence or an unsafe working condition;
3. The long term effect of your injury such as disfigurement or disability;
4. Whether your injury worsened a preexisting condition;
5. The pain and suffering associated with your injury and any future pain and suffering;
6. Lost earnings and lost benefits in the past or the future;
7. The cost of future medical care and the extent of past medical care;

If you are killed in a railroad accident, your family is entitled to:

1. Damages for pain and suffering you experienced before death;
2. Medical care and funeral expenses;
3. Future financial losses as a result of your death like the loss of wages and benefits to your spouse;

Summary

As a railroad employee the FELA provides you with a greater degree of protection than almost all other employees working in the United States.

But your rights under FELA will mean nothing, if you are not aware of them and it's not in the interests of the railroad company to inform you about what they might owe you. If you are badly injured you only get one chance to receive the compensation you or your family deserve.

That's why you should contact the experienced railroad injury lawyers of Cooper Hurley Injury Lawyers.

About Cooper Hurley Injury Lawyers



Attorneys Bill O'Mara, John Cooper and Jim Hurley

Attorneys John Cooper and Jim Hurley have more than 40 years' combined experience as personal injury lawyers. They were joined by attorney Bill O'Mara in 2014. Cooper Hurley Injury Lawyers is specialized in only handling accident and injury cases for individuals harmed by others. We do not ever represent railroad companies. Our lawyers belong to the Multimillion Dollar Advocates Forum.



JOHN COOPER

John Cooper has represented injured people for 23 years and specializes in FELA law, helping railroad workers hurt on the job. He is licensed to represent injured railroad workers in Virginia, North Carolina and West Virginia and in all states by special permission.

He heads the FELA Litigation Group and the Railroad Law Section of the American Association for Justice (the largest Plaintiffs' attorney organization in the US). John holds a top "AV" rating from Martindale Hubbell, a national lawyer assessment service, and is listed among VA "Super Lawyers" for injury law.



JIM HURLEY

Jim Hurley has represented personal injury clients since 1993 including many injured railroad workers. He has tried approximately 100 jury trials and been involved in thousands of litigation matters.

Jim Hurley is licensed in Virginia and Florida. He holds a top "AV" rating from Martindale Hubbell, reflecting a reputation among judges and lawyers for the highest level of skill and ethics in his field of accident and injury law.

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railroadaccidentinjury-fela-attorneys.com

