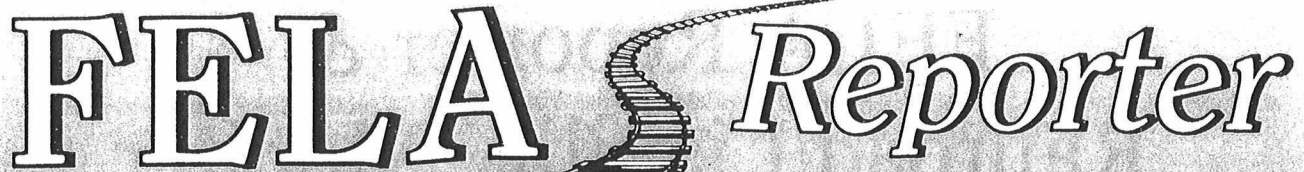


FELA Reporter



and Railroad Liability Monitor

Since 1989 the Nation's Only Journal of Railroad Safety and Liability

Vol. 24, No. 9

September, 2011

HIGHLIGHTS

Fall From Ballast Tamper and Slip in Yard Blamed for Injuries — Massachusetts Jury Returns Defense Verdict.

According to the plaintiff, age forty-four, he was injured in two separate incidents. He first fell from a ballast tamper as he attempted to mount it in order to perform routine maintenance. That fall was due to hydraulic oil on the steps. Plaintiff heard his shoulder pull and/or pop while he reached for the handholds. In the second incident, plaintiff was working about a half mile from the engine house as part of a crew installing cross-over switches when he fell because the embankment slid underneath him as the result of ice accumulated on snow. The second instance resulted in a torn medial meniscus and a rotator cuff injury. In his suit, plaintiff claimed that the ballast tamper was defective in that he was unable to adjust the handholds and because there was oil on the surface. With respect to the second injury, plaintiff claimed that the railroad should have provided him with a ride back to the engine house. The railroad denied liability, claiming that: (1) plaintiff failed to inspect the tamper; (2) there was no oil on the tamper, or even if there was it did not cause plaintiff to slip; and (3) it had no duty to provide plaintiff with a ride back to the engine house. The jury returned a defense verdict. **Seitzinger v. Providence & Worcester Railroad Co.**, Worcester Co. (MA) Superior Court No. 09-0878-B. Michael Flynn, John Young of Flynn & Wirkus, Quincy, MA for defendant.