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## WLF Urges U.S. Supreme Court to End “Double Dipping” by Injured Railroad Employees in Montana

*(BNSF Railway Co. v. Montana Eighth Judicial District Court)*

**“Montana courts have adopted a one-of-a-kind tort system that prevents railroads from effectively defending themselves in worker-injury lawsuits. This system defies congressional intent and should be eliminated.”**

**—Richard Samp, WLF Chief Counsel**

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Supreme Court to review (and ultimately overturn) Montana tort rules that unfairly hamstring railroads in their efforts to defend personal-injury suits filed by employees. In an *amicus curiae* brief filed in *BNSF Railway Co. v. Montana Eighth Judicial District*, WLF argues that the federal law governing railroad-worker injury claims is the exclusive vehicle for raising such claims and preempts the bad-faith tort system that Montana courts have superimposed on the one established by Congress.

Ever since 1908, the Federal Employers’ Liability Act (FELA) has provided railroad workers with an effective means of obtaining compensation for on-the-job injuries. Congress adopted FELA to replace a patchwork of state laws that often prevented injured railroad employees from obtaining any compensation. The Supreme Court has repeatedly held that FELA is an exclusive remedy; it is intended to establish nationwide, uniform standards governing compensation claims, and injured workers are not permitted to seek compensation under state law.

But for the past 20 years, Montana courts have recognized a unique bad-faith cause of action against railroads. Under Montana law, railroads owe their employees a fiduciary duty that bars them from resisting FELA claims too strongly. The result is that many injured employees in Montana file both a FELA lawsuit and a second, state-law claim alleging bad-faith handling of the FELA claim. In the case before the Supreme Court, the plaintiff already received a \$1.7 million FELA judgment that fully compensated him for his injuries but now seeks millions more for the railroad’s alleged bad faith. WLF’s brief argues that when Congress adopted FELA it intended to preempt the entire field of railroad injury claims and thus that the state-law claims routinely recognized by Montana courts are barred under the Constitution’s Supremacy Clause.

*Celebrating its 42nd year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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