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WLF Argues in Montana Supreme Court that FELA Preempts State-Law Claims Against Railroads

(*Dannels v. BNSF Railway Co.*)

“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) late yesterday called on the Montana Supreme Court to eliminate court rules that unfairly hamstring railroads in their efforts to defend personal-injury suits filed by employees. In an amicus curiae brief filed in *Dannels v. BNSF Railway Co.*, WLF argues that the Federal Employers Liability Act (FELA), 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, 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 U.S. 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 claim and a state-law bad-faith claim seeking punitive damages. In the case now before the Montana Supreme Court, the plaintiff won 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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