

HILDEBRAND MCLEOD & NELSON LLP

REPRESENTING INJURED RAILROAD WORKERS SINCE 1926

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IF YOU ARE INJURED WHILE ON DUTY:

1. Obtain medical treatment as soon as possible. You have the right to see the medical provider of your choice. You **do not** have to use railroad provided treatment centers. If threatened with insubordination, comply with managers request and then seek treatment with your own medical provider or hospital.
2. **Do not** allow railroad management into the examination room, or to discuss treatment of your injury with your medical provider or your family.
3. **Do not** fill out the accident report **until** you are mentally and physically able.
4. **Do not** give a taped or written statement to the railroad.
5. **Immediately** contact our Office or your Union Representative to help you fill out the accident report if you are unsure of how to answer any question.

Call Hildebrand McLeod & Nelson LLP 1-800-447-7500

Important Medical Information for Medical Providers:

- All medical bills are paid through the employee's group health insurance policy.
- Railroad workers **do not** have any rights under state worker's compensation.
- When injured on the job, railroad workers are governed by the Federal Employer's Liability Act ("FELA").
- FELA **does not** have a medical provision clause.
- The employer railroad **does not** have a right to talk to the employee's medical providers, obtain medical records, or participate in medical examinations without the employee's prior approval.
- Employees and medical providers are not required to get the company's authorization for medical treatment.
- The employer railroad **might** process the bills, but that **does not** waive the employee's doctor/patient privilege.

**UNDERSTANDING YOUR RIGHTS UNDER FELA IS THE FIRST STEP IN PROTECTING YOUR RIGHTS.
CONSULT WITH HILDEBRAND, MCLEOD & NELSON LLP**

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I know I am entitled to a certain amount from the company in the event of death. If they pay, can I still sue?

The monies to which you are entitled are the result of insurance policies, the collective bargaining agreement or the Railroad Retirement Board. These monies are earned through employment and do not come from the railroad. This means that you may still collect those monies and sue the railroad. However, if you accept money directly from the railroad and you sign a release, it will prevent you from suing. It is important to understand the difference

I have signed a release with the claims agent while under stress. Can I get out of this release?

The answer to this question depends on the facts involved in your signing the release. If it can be shown that you did not understand the circumstances surrounding the injury or death, did not understand the significance of the injuries (if there is no death), or signed because of false or concealed statements by the claims agents or doctors, a good attorney should be able to get you out of the release. This, however, is very difficult. Of course, the best procedure is to not sign in the first place until you have fully recovered your emotional and mental faculties and had an opportunity to consult with a lawyer.

My husband was in accident while away from home. I have to travel out of state to be with him at the hospital. Will the railroad pay for the cost of my going to the accident scene to be near my husband?

The railroad is not obligated to pay these costs. Sometimes the claims agent will offer to "put you up" and, in so doing, will try to control you and your claim. Again, this is a ploy to prevent early investigation of the accident scene and to procure necessary witness statements. The money which you are out of pocket can eventually become an element of damage in your lawsuit and can be recovered through trial. If you need money in the event your husband is involved in an accident away from home, first look to family and friends for support. If there are problems, contact an attorney.

What am I entitled to?

This is a difficult question and cannot be answered at the time of a catastrophe. Any claims agent or attorney who tells you what your case is worth or what he can get for you immediately after the time of the catastrophe is not giving you a straight answer. A case may only be fully evaluated after all of the facts and circumstances surrounding the event have been discovered, medical records have been evaluated, and the present value of future losses is ascertained.

Under the Federal Employers Liability Act, negligence must be proven. This means that there must be facts sufficient to support a claim that the railroad or one of its agents or employees did something wrong, or failed to do something that should have been done. Included in this area are unsafe tools, equipment and property as well as the failure to institute and oversee proper safety procedures. Then it must be shown that the act or omission played any part, even the smallest, in bringing about the injuries or death. Also, the actions of the injured or deceased railroad worker have to be evaluated to determine whether he or she was responsible in any way for the injury or death.

What do I do now?

Only after the questions are answered can a thorough evaluation of the value of the case be made.

There are special laws which apply if your spouse was injured or killed as a result of a defect of an engine or a defect in the train's safety appliances. These laws the Locomotive Inspection Act and Safety Appliance Act must be thoroughly evaluated. There are some things which you must know in order to make good decisions. As soon as possible, find out the answers to the questions listed below:

1. Where did the accident happen?
2. What time did the accident happen?
3. Who was with my husband at the time the accident happened?
4. Did anyone else see the accident?
5. What happened?

These are important questions and finding the answers to them as soon as possible will be of great benefit to you and your children in protecting your rights.

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