

Unanimous jury awards injured railroad engineer

Plaintiff injured when another train strikes his

A 4 mph jolt translated into a \$3.18 million verdict for a Burlington Northern engineer who injured his back.

A unanimous St. Louis County jury made the award to John Walsh after a four-day trial. Walsh was injured when another train struck the one he was working on.

Walsh claimed Burlington Northern Santa Fe Railway Co. was negligent and said in his lawsuit that the crew on the other train violated the railway's safety protocols.

The former engineer, from Mammoth Spring, Ark., was working at one of BNSF's large terminals in Thayer, Mo., near the Arkansas border. He was on a freight train with three separate cars, preparing to go home, said his attorney Roger Denton, of Schlichter, Bogard & Denton.

Walsh's train was struck by another train trying to couple onto his. At the time the train was hit, Walsh was turning to go down steps, and his lower back was twisted.

"The train was going about 4 mph, but the two cars weighed about 800,000 pounds," Denton said. "With that kind

of mass, the impact was a large jolt. It moved three cars with their brakes set about 2 feet."

Walsh said the other crew violated safety protocols by not calling ahead to let him know they were going to couple with the train. The train was also supposed to completely stop before coupling and didn't, Denton said.

An employee acknowledged he violated safety protocols, so liability was essentially not an issue, said defense attorney William Brasher, of Boyle Brasher.

The defense said Walsh could have radioed the other train to let them know that he was still on the train, but that was not typical practice, Denton said.

"There was nothing stopping [Walsh] from calling them, but he didn't have to," he said. "The obligation was on the railroad."

Walsh, who was 34 at the time of the accident, claimed he was no longer able to work for the railroad. He has had two back surgeries and may need a third.

The defense argued that Walsh's annual

\$3.18 million jury verdict

FEDERAL EMPLOYERS LIABILITY ACT

- Court: St. Louis County Circuit Court
- Case Number/Date: 08SL-CC02093/Feb. 4, 2010
- Judge: James Hartenbach
- Plaintiff's Experts: Dr. George Schoedinger, St. Louis (orthopedic surgeon); Dr. Ravindra Shitnut, St. Louis (orthopedic surgeon); Dr. Rebecca Summary, Cape Girardeau (economist)
- Defendant's Experts: Dr. Bernard Randolph, St. Louis (orthopedic surgeon)
- Last Pretrial Demand: \$2.2 million
- Captions: John Walsh v. Burlington Northern Santa Fe Railway Co.



Roger Denton

- Plaintiff's Attorneys: Roger Denton, Schlichter, Bogard & Denton, St. Louis
- Defendant's Attorneys: William Brasher, Boyle Brasher, St. Louis

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salary was \$60,000 a year, Brasher said. However, the plaintiff's economist estimated Walsh's economic losses at about \$2 million, Denton said.

"Given the liability situation and the plaintiff's age, the outcome was not unexpected, even for it being in the county," Brasher said.

Brasher said he expected BNSF to appeal

the verdict.

Walsh's case is one of the first under the Federal Employers Liability Act tried in St. Louis County after the state changed its tort laws in 2005. The law limits the venue in these cases to the county where the injury took place or the county where the railroad maintains its corporate agent.

— Angela Riley