

# Schlichter Bogard

Railroad Injury Newsletter

Winter 2025

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# Schlichter Bogard's Winter 2025 Railroad Injury Newsletter

Welcome to the Winter 2025 issue of Schlichter Bogard's Railroad Injury newsletter exclusively covering railroad-related topics.

In this issue we discuss winter safety tips, common themes of railroad negligence, and the role of expert witnesses in FELA cases.

We hope you enjoy this issue of the Schlichter Bogard Railroad Injury Newsletter. As always, we are here to answer any questions you may have:

**800-USE-LAWS** | [railroad@uselaws.com](mailto:railroad@uselaws.com).

Sincerely,



Jerry Schlichter, Andy Schlichter & Chuck Armbruster





## Winter Safety Tips: Stay Safe in the Cold

*by Jake Aubuchon, Associate*

The railroads hardly ever close due to severe winter weather. When a winter storm hits or the temperature dips dangerously low, railroad workers are expected to keep the railroads running. Railroad workers face these high-risk conditions to keep our country's freight moving. People rely on railroad workers for the timely delivery of important goods.

Freezing temperatures and other harsh weather conditions present serious safety dangers for railroaders, including hypothermia, frostbite, trench foot, chilblains, icy surfaces, impaired vision, frostbite, and even death. If you have a pre-existing condition such as asthma or type 1 or type 2 diabetes, exposure to the extreme cold could worsen these conditions. If you have asthma, inhaling cold air can tighten airways and cause shortness of breath, wheezing, and coughing. Cold air could possibly trigger an asthma attack, and you should seek immediate medical attention. If you have diabetes, cold weather can cause erratic blood sugar levels. Make sure to check your blood sugar regularly, and if you begin to feel dizzy or weak after coming back indoors, make sure you seek immediate medical attention.

Remember, the railroad is required by law to provide a reasonably safe workplace. That includes when you are working in frigid temperatures or severe winter weather. If you are injured due to the weather, the railroad will try and blame the weather instead of taking responsibility. But almost all injuries are preventable. The railroad must provide a reasonably safe workplace even during harsh weather conditions and the extreme cold.

This article is to help you identify some of the health hazards you will face during the extreme cold and steps the railroad should take to keep their workers safe.

### Health Hazards

- Hypothermia is when your body loses heat faster than it can produce it, resulting in an abnormally low body temperature. Symptoms to watch out for are uncontrollable shivering, memory loss, disorientation, and slurred speech. Hypothermia is life-threatening and a person may not know it is happening. It is important to watch for these symptoms in yourself and your fellow workers.
- Frostbite is when damage occurs to body tissue that has been exposed to the extreme cold. Symptoms include loss of feeling and white or pale appearance in the fingers and toes. Make sure to seek immediate help if you believe you are suffering from frostbite.
- Trench foot, also known as immersion foot, is an injury where your feet are exposed to wet and cold conditions for long periods of time. Symptoms include pain, swelling, redness, numbness, tingling, itching, and cramping. After a few days, blisters or ulcers may develop. If you suspect you have trench foot, seek medical treatment immediately.
- Chilblains is a skin condition that occurs when the skin is exposed to cold or damp weather. It can affect the hands, feet, ears, nose, and other extremities. The cold air narrows the blood vessels on the skin's surface and causes swelling. When the skin is then exposed to heat, the blood vessels widen too quickly, leading to inflammation and itchiness. If chilblains are left untreated, they can cause permanent damage.

## **Preventative Maintenance and Proper PPE**

- Winter PPE includes appropriate footwear that is insulated, water-resistant, with a non-slip tread and boot spikes to prevent falls. If necessary, wear two pairs of socks. The first pair, next to your skin, should be made of moisture-wicking fabric. A second pair of wool or wool-blended socks can be worn on top of the first pair. Your boots should cover your ankles and make sure nothing feels tight, because overly tight clothing can increase the risk of frostbite.
- The railroad should supply insulated, water-resistant gloves with an adequate grip to prevent falls.
- The best way to combat extreme temperatures is for the railroad to ensure there is a heated area to create a warm, dry place that allows railroaders to warm their bodies during breaks.
- Railroaders should dress in layers. In the extreme cold, they should wear at least three layers of clothing, including long underwear and a winter hat that covers the ears. Winter hats are important because they reduce the amount of body heat escaping from the head.
- Job briefings with crews should address extreme weather hazards and safe work methods.
- The railroad should provide written instruction and training for workers regarding working in the cold, including issues like warming up/stretching to reduce cold-induced stiffness, taking shorter and slower steps for traction, and recognizing when PPE is worn out and should be replaced.

When the railroad fails to take steps to ensure their workers are safe, the risk of injury increases. If you suffer a workplace injury involving winter weather conditions, do not assume the railroad is not at fault. You may have a potential injury claim. If you are injured, do not hesitate to contact our award-winning railroad trial lawyers here at Schlichter Bogard.



## Common Themes of Railroad Negligence in FELA Claims

*by Jon Jones, Associate*

As discussed in previous issues, the Federal Employers' Liability Act (FELA) protects railroad workers by holding employers accountable for injuries caused by unsafe working conditions. But under the FELA, unlike state workers' compensation laws, a railroad worker must prove that his/her injury was caused by the employer's negligence in order to recover any compensation. Without negligence, there is no compensation.

For that reason, the first step in evaluating whether an injured railroad worker has a viable FELA claim is determining how the railroad was negligent, if at all, in causing the injury. This article highlights many of the common "themes" of railroad negligence that our office identifies when investigating potential claims on behalf of injured workers. It is our hope that this list will help you understand what to look out for and empower each of you to investigate, report, and begin gathering proof of the railroad's negligence immediately following an injury incident:

- Unsafe walking conditions: Look out for conditions like oversized ballast in a yard; uneven or rutted walkways; poor drainage or muddy ground conditions; oil or other slippery substances on equipment; and vegetation or debris left in work areas.

- Unsafe equipment: Look out for equipment that does not function as intended, such as a sticky switch or hand brake; bent/broken handholds or sill steps; and unsecured or wobbly locomotive seats.
- Unsafe work methods: Look out for work methods that needlessly increase the risk of injury, such as getting on/off moving equipment; ask yourself if there is a safer way that the railroad could have trained you to complete the job.
- Unsafe track conditions: These conditions could be caused by inadequate inspection frequency, including special inspections after severe weather; poor maintenance; shallow ballast around cross ties; inadequate or obstructed drainage; sudden temperature changes; or deviations from track engineering standards.
- Overgrown vegetation or other environmental hazards: Look out for tall grass that impairs sight lines; vegetation that interferes with trackside duties; standing water in or near work areas; and old trees that are growing or leaning toward tracks.
- Inadequate tools: Look out for tools that the railroad failed to provide; ask yourself whether there is a tool that would have made a manual job task less strenuous, such as a brake stick, knuckle mate, or portable jack.
- Inadequate overhead lighting: Handheld lanterns are not a substitute for good overhead lighting in rail yards and at crew change points.
- Inadequate assistance or rest: Failure to provide enough qualified and well-rested workers to ensure that inspection, maintenance, and other work tasks can be accomplished safely and effectively can constitute negligence.

- Inadequate supervision: Look out for supervisors who instruct workers to cut corners; push workers to complete inspections too quickly; and turn a blind eye to rule violations and potentially unsafe practices—especially where this is done to increase the speed of operations.
- Negligence of others under the railroad’s control: Under the FELA, railroad employers have a non-delegable duty to provide a reasonably safe workplace, which means they are liable for an injury, even if it is caused by the negligence of fellow railroad workers and certain third parties, like a contracted crew hauler, industry customer, or railroad-provided hotel.
- Violations of railroad safety laws: There are many railroad safety laws, which are too numerous to recount here in any detail. But generally, these are statutes and regulations that contain requirements applicable to locomotives/railcars, track structures, trackside vegetation, grade crossings, and certain aspects of railroad operations and communications. An experienced railroad injury attorney is your best resource to help identify whether and how a railroad safety law was violated.

Although this list contains many of the common themes of negligence we see in handling FELA claims, it is by no means exhaustive. Just because your injury incident does not fall into one of the themes listed above, it does not mean you are without a FELA claim. If you or someone who you know experiences a workplace injury, contact Schlichter Bogard’s railroad injury attorneys as soon as possible. Our experienced attorneys will determine whether you have a claim, identify how the railroad was negligent in causing the injury, and help you avoid potential pitfalls often encountered by unrepresented individuals during the claims process.





## The Role of Expert Witnesses in FELA Cases

*by John R. Suermann, Jr., Counsel*

Under the Federal Employers Liability Act (FELA), expert witnesses help navigate the legal challenges of workplace injuries. These professionals transform technical information into clear stories that explain what happened to an injured worker and why it matters.

For example, medical experts—who are sometimes treating doctors—do more than simply record injuries. They connect the details of an incident to its broader health impacts, showing how a workplace accident affects a worker's current and future well-being, including whether a worker has suffered a debilitating injury and what medical care will be reasonably required in the future. These professionals help courts and juries understand the true human cost of railroad accidents.

Similarly, safety and technical (often mechanical) experts provide critical insights into workplace conditions and equipment. Railroad specialists examine maintenance records, inspect equipment, and examine safety protocols and regulations—both workplace and governmental. Their testimony helps establish whether a railroad fulfilled its duty to protect workers, including identifying potential systemic problems that may have contributed to an injury.


Economic experts add another important layer by calculating the financial impact of an injury. They estimate future medical costs, potential lost earnings, and the overall economic consequences of a workplace accident. This helps ensure that compensation reflects the full extent of a worker's losses.

In addition, the range of expert witnesses has grown to include specialists from many fields. For example, ergonomics experts can explain how workplace design might contribute to injuries. Life-care planners provide insights into future medical needs, while vocational experts address employment challenges caused by workplace injuries.

These experts function as teachers. They translate complex technical information into understandable data or stories. They use their professional knowledge to bridge the gap between technical details and human experience, helping judges and juries comprehend the full context of a workplace injury.

In legal proceedings, expert witnesses often provide their conclusions through written reports and courtroom testimony. While attorneys may recommend (or endorse) an expert, a judge makes the final decision about their qualifications and relevance to a specific case. Although the judge of each case acts as the ultimate gatekeeper as to which experts may be allowed to testify at trial, not all experts are created equally. It is important to understand that a good (or great) expert is objective. The expert who takes “sides” or acts as an “advocate” loses credibility. Expert witnesses (should) provide an objective, comprehensive analysis of the technical circumstances surrounding a workplace injury, enabling legal counsel to construct a substantive and persuasive narrative for the court. By presenting factual, unbiased insights, these expert professionals lay the critical foundation upon which skilled attorneys build a compelling case that effectively communicates the full scope of the worker’s experience and potential damages.

At Schlichter Bogard, we recognize the pivotal role of expert testimony in constructing a comprehensive personal-injury claim. Our legal team possesses extensive experience in identifying, securing, and strategically leveraging expert witnesses in railroad-injury cases. Our attorneys are prepared to provide sophisticated legal guidance and support for individuals navigating work-related injury claims. We invite those seeking professional legal counsel to contact our office for confidential consultation regarding their specific circumstances.



**Top-tier, uncompromising  
representation for America's  
railroad workers.**

## Questions?

**As always, our team of nationally recognized  
Railroad Injury attorneys are available to answer any  
questions you have. Contact our office at  
[railroad@uselaws.com](mailto:railroad@uselaws.com) or **800-USE-LAWS**.**

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The information contained in this newsletter is provided for informational purposes only and does not constitute legal advice. Reading this newsletter and information contained herein does not constitute formation of an attorney-client relationship. Every potential case must be assessed in accordance with its unique facts and circumstances. If you believe you may have a legal claim, please request a free, confidential case evaluation with our team today.