

LOUISIANA COURT OF APPEAL, SECOND CIRCUIT

Michael Waller v. Kansas City Southern Railway Company

No. 56,527-CA · No. 56,527-CA · Decided November 26, 2025

SUMMARY

The Louisiana Court of Appeal, Second Circuit, reviewed a Federal Employers’ Liability Act action arising from Michael Waller’s workplace injury at Kansas City Southern Railway Company. The court held that review of the denial of summary judgment was improper after a full trial, found evidentiary support for the jury’s negligence findings, and addressed whether violation of an incorporated ASME crane-safety standard barred comparative negligence. It amended the trial court’s judgment to reduce Waller’s \$5,380,665.06 award by his 20% comparative fault and affirmed the judgment as amended.

CASE DETAILS

COURT	Louisiana Court of Appeal, Second Circuit
WRITING FOR THE COURT	Stephens, J.; Robinson, J.; Ellender, J.
JURISDICTION	Louisiana Court of Appeal, Second Circuit
DECIDED	November 26, 2025
DOCKET	56,527-CA
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Kansas City Southern appealed a judgment entered after an eleven-day jury trial in a Federal Employers' Liability Act action. The jury found KCS 80% at fault and Waller 20% at fault and awarded total damages of \$5,380,655.06. The trial court entered judgment for the full award without reducing it for Waller's comparative fault and denied KCS's motion for new trial.
STANDARD OF REVIEW	Denial of summary judgment is not properly reviewed after a full trial on the merits; the appellate court reviews the trial record under the standards applicable to the issues tried. In a FELA case, factual findings may not be reversed unless there is a complete absence of probative facts supporting the fact finder's conclusions. Jury fault allocations and damages awards are afforded substantial deference and are not disturbed when supported by the evidence or within the jury's discretion.
PRECEDENTIAL VALUE	Published Louisiana Court of Appeal opinion

PARTIES

Kansas City Southern Railway Company v. Michael Waller

TOPICS

negligence

personal injury

comparative fault

standard of review

appellate procedure

PRACTICE AREAS

Federal Employers' Liability Act

negligence

personal injury

appellate procedure

damages

QUESTIONS PRESENTED

1. Whether the appellate court could review KCS's denial of partial summary judgment after a full trial on the merits.
2. Whether the trial evidence provided a sufficient basis for the jury to find KCS negligent under FELA.
3. Whether the trial court erred by entering judgment for the full jury award rather than reducing it by Waller's 20% comparative fault.
4. Whether the jury's allocation of only 20% fault to Waller was manifestly erroneous.
5. Whether the jury abused its discretion by awarding \$3.94 million in general damages.
6. Whether the jury's award of future medical expenses improperly included costs for procedures Waller had declined.

HOLDINGS

1. After a full trial on the merits, denial of a motion for summary judgment is not reviewed under the pretrial de novo summary-judgment standard; issues raised by the motion are considered in light of the full trial record and the standards applicable to the issues tried.
2. The evidence was sufficient to support the jury's finding that KCS was negligent and that its negligence played a part in causing Waller's injuries; there was not a complete absence of probative facts supporting the verdict.
3. The trial court erred by entering judgment that did not correspond to the jury's verdict. Because negligence per se was not submitted to the jury and the jury was instructed to apply comparative fault, the judgment had to reduce Waller's damages by the 20% fault allocated to him.
4. The jury's allocation of 20% fault to Waller was not manifestly erroneous.
5. The jury's \$3.94 million general-damages award was not an abuse of its vast discretion.
6. The award of future medical expenses was not manifestly erroneous because it fell within the range of evidence presented to the jury.

KEY QUOTATIONS

"Negligence within the meaning of FELA exists if the defendant railroad "knew or by the exercise of due care should have known" that its conduct was "inadequate to protect [the plaintiff] and similarly situated employees."" (at 6-7)

“If negligence is proved and is shown to have played any part, even the slightest in producing the injury, Rogers v. Missouri Pacific R.R. Co., 352 U.S. 500, 77 S. Ct. 443, 1 L. Ed. 2d 493 (1957), then the carrier is answerable in damages” (at 7)

“In a jury trial, the jury is responsible for finding facts and applying the law, as charged by the court, to the facts in arriving at a verdict.” (at 24)

“Thus, we will amend the trial court’s judgment by reducing the damages awarded to the plaintiff by the 20% comparative fault assessed to him by the jury.” (at 25)

FACTUAL BACKGROUND

Waller, a KCS electrician, was injured at the railroad's Shreveport diesel repair shop when he leaned against a roughly 3,000-pound fan housing that had been left standing in a V-shaped configuration and it tipped onto his left foot. The housing was near Waller's tool locker, an area employees used to access tools and change footwear, and it had not been blocked, secured, or otherwise stabilized. Waller suffered permanent foot and ankle injuries, chronic regional pain syndrome, mobility limitations, and a later wrist injury caused by a fall. Evidence also showed that KCS could not identify who had moved the housing or establish whether a job briefing or proper crane-related training had occurred.

PROCEDURAL HISTORY

Waller sued KCS for workplace injuries sustained when a fan housing tipped over and crushed his foot. The trial court denied KCS's partial summary-judgment motion and directed-verdict motion. After trial, the jury found both parties negligent, found an OSHA-incorporated ASME standard violation, allocated fault 80% to KCS and 20% to Waller, and awarded damages. The trial court entered judgment for the unreduced award, denied a new trial, and KCS appealed. The court of appeal amended the judgment to reduce damages by 20% and affirmed in all other respects.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Amend the trial court's judgment to reduce Waller's damages award by 20%, the percentage of comparative fault allocated to him by the jury, and affirm the judgment in all other respects. The opinion characterizes the result as amended and, as amended, affirmed.

CASES CITED

- Hall v. Folger Coffee Co., 03-1734 (La. 4/14/04), 874 So. 2d 90
- Hood v. Cotter, 08-0215 (La. 12/2/08), 5 So. 3d 819
- Norfolk Southern Railway Co. v. Sorrell, 549 U.S. 158, 127 S. Ct. 799, 166 L. Ed. 2d 638 (2007)
- Erie Railroad Co. v. Winfield, 244 U.S. 170, 37 S. Ct. 556, 61 L. Ed. 1047 (1917)
- Consolidated Rail Corp. v. Gottshall, 512 U.S. 532, 114 S. Ct. 2396, 129 L. Ed. 2d 427 (1994)

- *Lynch v. Northeast Regional Commuter R.R. Corp.*, 700 F.3d 906 (7th Cir. 2012)
- *Urie v. Thompson*, 337 U.S. 163, 69 S. Ct. 1018, 93 L. Ed. 1282 (1949)
- *Huffman v. Union Pacific R.R.*, 675 F.3d 412 (5th Cir. 2012)
- *CSX Transportation Inc. v. McBride*, 564 U.S. 685, 131 S. Ct. 2630, 180 L. Ed. 2d 637 (2011)
- *Gallick v. Baltimore & Ohio R.R. Co.*, 372 U.S. 108, 83 S. Ct. 659, 9 L. Ed. 2d 618 (1963)
- *Rogers v. Missouri Pacific R.R. Co.*, 352 U.S. 500, 77 S. Ct. 443, 1 L. Ed. 2d 493 (1957)
- *Sinkler v. Missouri Pacific R.R. Co.*, 356 U.S. 326, 78 S. Ct. 758, 2 L. Ed. 2d 799 (1958)
- *Monessen Southwestern Railway Co. v. Morgan*, 486 U.S. 330, 108 S. Ct. 1837, 100 L. Ed. 2d 349 (1988)
- *St. Louis Southwestern Ry. Co. v. Dickerson*, 470 U.S. 409, 105 S. Ct. 1347, 84 L. Ed. 2d 303 (1985)
- *Lavender v. Kurn*, 327 U.S. 645, 66 S. Ct. 740, 90 L. Ed. 916 (1946)
- *Tennant v. Peoria & Pekin Union Ry. Co.*, 321 U.S. 29, 64 S. Ct. 409, 88 L. Ed. 520 (1944)
- *Manhack v. Willamette Industries, Inc.*, 621 So. 2d 649 (La. App. 2 Cir. 1993)
- *Gatlin v. Entergy Corp.*, 04-0034 (La. App. 4 Cir. 5/4/05), 904 So. 2d 31
- *Walden v. Illinois Central Gulf R.R.*, 975 F.2d 361 (7th Cir. 1992)
- *Kernan v. Am. Dredging*, 355 U.S. 426, 78 S. Ct. 394, 2 L. Ed. 2d 382 (1958)
- *Watson v. State Farm Fire and Casualty Ins. Co.*, 469 So. 2d 967 (La. 1985)
- *Barber Bros. Contracting Co., LLC v. Capitol City Produce Co., LLC*, 23-00788 (La. 12/19/24), 397 So. 3d 404
- *Pete v. Boland Marine & Mfg. Co., LLC*, 23-00170 (La. 10/20/23), 379 So. 3d 636