

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Straub v. BNSF Ry. Co.

Straub v. BNSF Ry. Co., 909 F.3d 1280 (10th Cir. 2018) · No. 17-1050 · Decided December 3, 2018

SUMMARY

****Straub v. BNSF Ry. Co., 909 F.3d 1280 (10th Cir. 2018)**** The Tenth Circuit held that an engineer's chair with a defective seat adjustment mechanism is a "part or appurtenance" of a locomotive under the Federal Locomotive Inspection Act (LIA), 49 U.S.C. § 20701, and that a railroad's failure to maintain such an installed chair in safe condition states a strict-liability claim under the LIA. The court distinguished "failure to maintain" claims from "failure to install" claims, rejecting the district court's reductive focus on the adjustment mechanism as a non-essential comfort device and instead emphasizing the integrated nature of the chair and its mounting system. The decision reversed dismissal of the FELA claim based on LIA violations and remanded, noting that 49 C.F.R. § 229.7 also requires maintaining the chair in proper condition.

CASE DETAILS

COURT	United States Court of Appeals for the Tenth Circuit
WRITING FOR THE COURT	Murphy; Bacharach; McHugh
JURISDICTION	Federal
DECIDED	December 3, 2018
DOCKET	17-1050
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from dismissal of LIA-based strict liability claims under Fed. R. Civ. P. 12(b)(6).
STANDARD OF REVIEW	De novo
PRECEDENTIAL VALUE	Published
PARTIES	George W. Straub, IV v. BNSF Railway Company

TOPICS

- negligence
- strict liability
- statutory interpretation
- motions to dismiss
- appellate procedure

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the engineer's chair and its seat adjustment mechanism collectively constitute a 'part or appurtenance' of a locomotive under the Locomotive Inspection Act (LIA).
2. Whether the complaint states a claim for violation of LIA's general duty to maintain a locomotive in safe condition based on a failure to maintain the engineer's chair.
3. Whether the district court erred in focusing on the seat adjustment mechanism in isolation rather than the engineer's chair as a whole.

HOLDINGS

1. The allegations set out in Straub's complaint (i.e., that the engineer's chair failed when moved initially and stopped abruptly as Straub was attempting to adjust it) state a violation of LIA. Once BNSF installed an engineer's chair with a seat adjustment mechanism, 49 U.S.C. § 20701(1) mandated that BNSF maintain the chair so that the seat adjustment device be 'in proper condition and safe to operate without unnecessary danger of personal injury' and 49 C.F.R. § 229.7 mandated that BNSF maintain the chair so that the seat adjustment mechanism was 'in proper condition and safe to operate in service . . . without unnecessary peril to life or limb.'

KEY QUOTATIONS

"We agree with these decisions in that narrow regard and hold that the allegations set out in Straub's complaint (i.e., that the engineer's chair failed when moved initially and stopped abruptly as Straub was attempting to adjust it) state a violation of LIA." (19)

"Once BNSF installed an engineer's chair with a seat adjustment mechanism, 49 U.S.C. § 20701(1) mandated that BNSF maintain the chair so that the seat adjustment device be 'in proper condition and safe to operate without unnecessary danger of personal injury' and 49 C.F.R. § 229.7 mandated that BNSF maintain the chair so that the seat adjustment mechanism was 'in proper condition and safe to operate in service . . . without unnecessary peril to life or limb.'" (19-20)

"Such 'failure to maintain' claims have been widely recognized as meritorious. However, those claims are entirely different from claims that a railroad is liable for failing to install additional safety devices which the [FRA] has not seen fit to require. Such 'failure to install' claims have been rejected." (18)

"Whatever in fact is an integral or essential part of a completed locomotive, and all parts or attachments definitely prescribed by lawful order of the [FRA], are within the statute." (15)

FACTUAL BACKGROUND

George Straub, an employee of BNSF, was injured on September 9, 2012, while attempting to adjust the engineer's seat on Locomotive #6295. The seat moved initially and then stopped abruptly, causing injury to his back and neck. The seat adjustment mechanism is designed to allow the engineer to move the seat forward or

backward and is attached to the locomotive via a wall-mounted channel. The seat and its adjustment mechanisms are one integrated unit. The defective condition made the seat unsafe to operate.

PROCEDURAL HISTORY

Straub filed a FELA negligence claim and LIA-based strict liability claims. BNSF moved to dismiss the LIA claims. The district court granted the motion, concluding the seat adjustment mechanism was not an integral or essential part of a completed locomotive. The district court later denied leave to amend as futile. Straub appealed.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

for further proceedings consistent with this opinion.

CASES CITED

- S. Ry. Co. v. Lunsford, 297 U.S. 398 (1936)
- King v. Southern Pacific Transportation Co., 855 F.2d 1485 (10th Cir. 1988)
- Consol. Rail Corp. v. Gottshall, 512 U.S. 532 (1994)
- Kernan v. Am. Dredging Co., 355 U.S. 426 (1958)
- CSX Transp., Inc. v. McBride, 564 U.S. 685 (2011)
- Urie v. Thompson, 337 U.S. 163 (1949)
- Garcia v. Burlington N. R.R. Co., 818 F.2d 713 (10th Cir. 1987)
- Kurns v. R.R. Friction Prods. Corp., 565 U.S. 625 (2012)
- Lilly v. Grand Trunk W. R.R. Co., 317 U.S. 481 (1943)
- Matson v. Burlington N. Santa Fe R.R., 240 F.3d 1233 (10th Cir. 2001)
- McGinn v. Burlington N. R.R. Co., 102 F.3d 295 (7th Cir. 1996)
- Oglesby v. S. Pac. Transp. Co., 6 F.3d 603 (9th Cir. 1993)
- Heiselmoyer v. Penn. R.R. Co., 243 F.2d 773 (3d Cir. 1957)
- Munns v. CSX Transp., Inc., 579 F. Supp. 2d 924 (N.D. Ohio 2008)
- Diede v. Burlington N. R.R. Co., 772 F.2d 593 (9th Cir. 1985)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544 (2007)
- Peterson v. Grisham, 594 F.3d 723 (10th Cir. 2010)
- Tellabs, Inc. v. Makor Issues & Rights, Ltd., 551 U.S. 308 (2007)
- Moore v. Guthrie, 438 F.3d 1036 (10th Cir. 2006)
- Indus. Constructors Corp. v. U.S. Bureau of Reclamation, 15 F.3d 963 (10th Cir. 1994)
- Miller ex rel. S.M. v. Bd. of Educ., 565 F.3d 1232 (10th Cir. 2009)

- *Gee v. Pacheco*, 627 F.3d 1178 (10th Cir. 2010)
- *Yates v. United States*, 135 S. Ct. 1074 (2015)
- *Marx v. Gen. Revenue Corp.*, 568 U.S. 371 (2013)
- *Clemons v. Burlington N. Santa Fe Ry.*, No. cv-15-01788, 2016 WL 10586284 (C.D. Cal. April 8, 2016)
- *Stevenson v. Union Pac. R.R. Co.*, No. 4:07-cv-00522, 2009 WL 129916 (E.D. Ark. Jan. 20, 2009)
- *Terrell v. Soo Line R.R. Co.*, No. 2:04-cv-095, 2005 WL 4882750 (S.D. Ind. Sept. 1, 2005)
- *Spade v. CSX Transp., Inc.*, No. 5:02-cv-129, 2004 WL 2980740 (W.D. Mich. Jan. 30, 2004)
- *Kleeberg v. Norfolk S. Ry. Co.*, No. 00-C-963, 2001 WL 914460 (N.D. Ill. Aug. 13, 2001)

CITED IN

- *Straub v. BNSF Ry. Co.*, *Straub v. BNSF Railway Co.*, 909 F.3d 1280, 1287 (10th Cir. 2018)
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