

C. MARSHALL FRIEDMAN P.C.

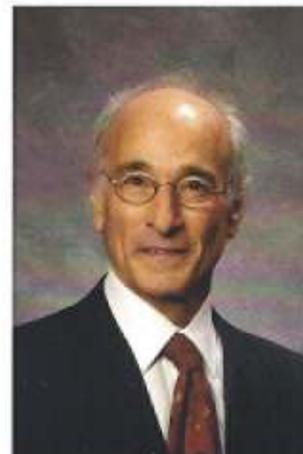


ATTORNEYS AT LAW

1-800-233-7636

**Marshall Friedman** has been actively engaged in the railway labor movement and in the representation of injured railway employees for over 40 years.

Marshall was the recipient of the Outstanding Trial Lawyer Award by the Missouri Bar. He has been certified as a Civil Trial Advocate by the National Board of Trial Advocacy. He is the former President of the American Board of Trial Advocates, Missouri-Southern Illinois Chapter. He is a member of numerous legal organizations and has lectured and written for the Missouri Bar, national publications and other related trial publications. In addition, he is a professor on the faculty of Washington University School of Law and he has been teaching trial practice and procedures for over 25 years.



Marshall has been listed for many years in the national publication, "The Best Lawyers in America" to represent injured railroad workers.

Many articles written by Marshall have been published, including: "Lung Damage Caused by Exposure to Toluene Diisocyanate (TDI)," published in Courtroom Medicine - Chest, Heart and Lungs, Volume 11, and the article entitled, "Federal Employers' Liability Act, Jones Act and Longshoremen's and Harbor Workers' Compensation Act," published by the Missouri Bar, Missouri Tort Law, Third Edition.

In Washington, Marshall continues to fight on behalf of rail labor. He is a member of the Railroad Safety Advisory Committee established by the Federal Railroad Administration to make recommendations on rail safety. Historically, the railroads have undermined federal regulations enacted to protect the safety of railroad workers and the public at large. The overwhelming evidence that Marshall and railway labor presented before the Federal Railroad Administration and the Congress of the United States has clearly demonstrated that such disregard for rail safety has caused numerous fatalities, injuries, devastating derailments and toxic pollution of our waterways and atmosphere.

Marshall has represented railway labor organizations before numerous Emergency Boards appointed by Presidents of the United States for over 40 years and has been involved in national negotiations on behalf of rail labor.

Marshall has represented thousands of injured railway employees under the Federal Employers' Liability Act and has obtained some of the largest jury verdicts in the United States as compensation for those injured employees. Many of these verdicts have been in excess of a million dollars.

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**C. MARSHALL FRIEDMAN**

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KENNETH E. RUDD  
JEFFREY E. CHOD  
ANDREW S. WILLIAMS  
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THIRTEENTH FLOOR  
1010 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-621-8400  
TOLL FREE  
1-800-233-7636  
FAX: 314-621-8843

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December 2010

Dear Friends,

**Season's Greetings to you and your family!**

In our constant quest to bring you the very best service possible, I am proud to announce that five additional talented field representatives have recently joined our team of over 20 field representatives and investigators. In addition I am especially happy to announce that my son, Robert, has also joined our firm as a practicing attorney. I am pleased to take this opportunity to introduce them to you.



**Spartanburg, South Carolina**

Jack Wright began his career with the Southern Railway in 1968 at the Hayne Shop in Spartanburg, South Carolina. Jack served in various offices of BRC Lodge 43 from the beginning of his career until 1985, and on JPB 200 as Vice General Chairman from 1987 through 2005. He was then appointed to the position of International Representative of Unit 200. Jack retired in 2009. Among his greatest accomplishments is his 35 year career in the U.S. Army, Active and Reserve, including the achievement of the rank of Command Sergeant Major. Jack is headquartered in Spartanburg, South Carolina.



**Chicago, Illinois**

William (Bill) Raia began his railroad career in 1965 for the SOO Line at Schiller Park, Illinois; and in 1980 he was promoted to Locomotive and Car Foreman. After the Milwaukee merger he went to the Bensenville Yard as Car Shop Foreman. Bill held several union positions over the years, and was an active officer with Local 6266. In 1994 he was elected to JPB 600 Executive Board and thereafter GST/VGC of that Board. Bill is at your service in Chicago, Illinois.



**Fort Wayne, Indiana**

Steve Pequignot began working with the Norfolk and Western Railway in 1967 and became a union officer in 1971. After serving as Secretary of the Lodge Local Protective Committee, Steve was elected to the office of Local Chairman in 1978, an office he held for 26 years. In 1986 he was elected to the Executive Committee of the Nickel Plate Joint Protective Board 350 and seven years later was elected to Vice General Chairman. Steve has vast experience with railroad safety, serving on the Norfolk Southern safety program and as Chairman of the Fort Wayne Terminal Safety committee. Steve is our field representative in Fort Wayne, Indiana.





#### **Houston, Texas**

Gilbert Loftin began his career in 1966 with the Missouri Pacific Railroad as a Carman apprentice. He was promoted to Foreman in 1972, and was elected to the position of ARASA General Chairman in 1992. Gilbert also served as General Secretary Treasurer of ARASA until his retirement in 2005. We are pleased that Gilbert is at your service in Houston, Texas.



#### **Omaha, Nebraska**

Pat Perry started with the Union Pacific Railroad in Omaha, Nebraska in January 1968 as an electrician apprentice. Thereafter, he worked as an electrician in the Maintenance of Way department and has worked in Kansas, Missouri, Wyoming, Nebraska and Iowa. Pat became Local Chairman of IBEW Local 618 in Omaha in 1985 and Vice General Chairman of IBEW System Council #3 in 1988. He was elected Executive Board member in 1990 and Vice General Chairman, Secretary- Treasurer of System Council #2 in 1994. Pat brings to our firm 41 years of railroad experience, along with studies completed at the University of Nebraska at Omaha and the George Meany Training Center. He serves as our field representative in Omaha, Nebraska.



**Robert Friedman** received his undergraduate degree from Brandeis University and his law degree from Washington University School of Law. During law school, Robert gained extensive experience as an intern in civil litigation, criminal defense and environmental law. Before joining our firm, Robert served as law clerk to the Honorable Judge J. Robin Hunt of the Washington Court of Appeals in Tacoma, Washington. Robert has written legal articles that have been published in a number of national law journals including: St. Thomas Law Review, The Tennessee Journal of Business Law and the Midwest Black Law Students Association Law Journal. During his college years, Robert played varsity tennis and hockey. Since graduating, he has continued his athletic interests by competing in numerous 26.2 mile marathons, including the Boston Marathon. Robert resides in St. Louis with his wife, Kate, and their 9-month old baby daughter.

The addition of these new members to our firm further enhances our ability to address all of your needs and concerns. Our field representatives and attorneys provide extensive background experience, investigation and research in preparing claims for injured railroaders. We are very proud that our representatives possess great railroad, FRA and legal experience in multiple backgrounds and crafts and span an employment history of well over a century. Please visit our website at: [www.marshallfriedman.com](http://www.marshallfriedman.com) to learn more about our firm, who we are, and what we can do for you. We are here to serve you!

Along with my sincere best wishes for a healthy and happy New Year to you and your loved ones, I would like to express my heartfelt thanks for your friendship and confidence throughout the years.

Fraternally yours,

C. Marshall Friedman

# The Federal Railroad Safety Act... and You

## *An Informational Guide for Railroad Workers*

Compliments of the  
Law Offices of C. Marshall Friedman, P.C.

314.621.8400

800.233.7636

[www.marshallfriedman.com](http://www.marshallfriedman.com)

### What is the New Law 20109?

2007 Amendments to the *Federal Railroad Safety Act* (FRSA), 49 U.S.C. §20109, is a new law that protects railroad employees. The law transferred enforcement of the whistleblower protections to the Occupational Safety and Health Administration (OSHA) and includes new rights, remedies and procedures. FRSA protects employees from retaliation for reporting injuries, certain safety concerns and security violations. It protects railroad employees from being fired, demoted, disciplined, or intimidated for engaging in certain protected activities.

2008 amendments, known as the *Rail Safety Improvement Act*, specifically prohibited discipline of employees, contractors or subcontractors for requesting medical treatment or for following medical treatment orders.

Whistleblower Protection  
for Railroad Workers  
You are protected from  
retaliation for reporting  
potential safety or  
security violations.

### What Activities or Actions are Protected?

The railroad may not discharge or in any other manner retaliate against you because you provided information or assistance in an investigation by a federal regulatory or law enforcement agency, a member or committee of Congress, or your company about an alleged violation of federal laws and regulations related to railroad safety and security, or about gross fraud, waste or abuse of funds intended for railroad safety or security. Your employer may not discharge or in any other manner retaliate against you because you filed, caused to be filed, participated in, or assisted in a proceeding under one of these laws or regulations.

**You are protected from retaliation for reporting a work related illness, hazardous safety or security conditions, refusing to work under certain unsafe conditions or refusing to authorize the use of any safety or security-related equipment, track or structures because you believe that the equipment, track or structures are in a hazardous safety or security condition.**

You may also be covered if you were perceived as having engaged in the activities described above.

You are also protected from retaliation, (including being brought up on charges in a disciplinary proceeding), or threatened retaliation for requesting medical or first-aid treatment, or for following doctor's orders.

### Adverse Actions

The railroad may be found to have violated FRSA if your protected activity was a contributing factor in its decision to take adverse action against you. Such actions may include:

- ⬇ Firing or laying off
- ⬇ Blacklisting
- ⬇ Demoting
- ⬇ Denying overtime or promotion
- ⬇ Disciplining
- ⬇ Denying benefits
- ⬇ Failing to hire or rehire
- ⬇ Intimidation
- ⬇ Making threats
- ⬇ Reassignment affecting promotion prospects
- ⬇ Reducing pay or hours
- ⬇ Disciplining an employee for requesting medical or first-aid treatment
- ⬇ Disciplining an employee for following orders or a treatment plan of a treating physician
- ⬇ Forcing an employee to work against medical advice

### Deadline for Filing a Complaint

**Complaints must be filed with OSHA within 180 days after the alleged adverse action occurred. Time may be running out! Call our office immediately to protect your rights!** If the evidence supports your claim of retaliation, your relief may include:

- ⬇ Reinstatement with the same seniority and benefits
- ⬇ Back-pay with interest
- ⬇ Compensatory damages, including compensation for special damages, expert witness fees and reasonable attorney's fees
- ⬇ Punitive damages of up to \$250,000

For more information, see <http://whistleblowers.gov/>

**Let us help you secure YOUR rights under this new Law**

**Law Offices of C. Marshall Friedman**

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# protect

YOURSELF WHEN  
HURT ON THE JOB

# KNOW your rights

*under  
the Federal Employers'  
(Railroad) Liability Act*



C. MARSHALL FRIEDMAN  
*A Professional Corporation*

Toll Free:  
1-800-233-7636

C. MARSHALL FRIEDMAN  
Attorney at Law

Thirteenth Floor, 1010 Market Street  
St. Louis, Missouri 63101  
1-314-621-8400  
1-314-621-8843 fax

[www.marshallfriedman.com](http://www.marshallfriedman.com)



**Our 24-page booklet provides vital information for you and your family in the event of an on-the-job injury.**

If you don't have a copy of this booklet you can read it online at: [www.tcu6760.com/felahome.htm](http://www.tcu6760.com/felahome.htm)

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TERRY L. PIJUT  
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TAMAR HAMM

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**Successful Court of Appeals Opinion**

Dear Friends:

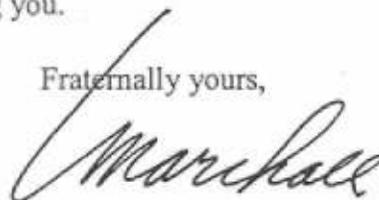
I am very pleased to advise of a successful appeal on behalf of our client, Richard Owens. Richard was, and continues to be, employed by the CSX Transportation Company. He sustained serious injuries to his right shoulder as a result of cumulative and repetitive work involving opening tri-level auto rack end doors, adjusting movable B-decks and installing bridge plates. This work was performed at the Ford plant in Detroit, Michigan. The equipment was not properly maintained by CSX thereby requiring unnecessary manual force which resulted in Richard's right shoulder joint injuries. Richard lost 10 months of work and had returned to work full time before trial. CSX contended that it had no responsibility and offered \$5,000.00 to settle the case before trial. A unanimous jury ruled in our favor and damages were awarded in the sum of \$185,000.00. CSX appealed the judgment on multiple grounds of alleged error, including a contention that Richard's claim was barred by the FELA's three (3) year statute of limitations.

A unanimous three judge panel of the Michigan Court of Appeals rejected all of CSX's claims on appeal. The Court of Appeals held that although Richard had experienced carpal tunnel and radial tunnel complaints involving his arms several years earlier, those complaints were different than the right shoulder injuries that were the basis of this case. Consequently, the Court of Appeals held that Richard's right shoulder injuries were not barred by the (3) year statute of limitations. The Court of Appeals also rejected all other claims raised by CSX on appeal. In addition to the damage award, CSX will be required to pay interest from the date of the judgment.

As is the situation in all cases, the results achieved were based upon the particular facts of this case. Each case is unique, so it cannot be assumed that similar results will be achieved in other cases. In any event, we will continue to provide the same high quality representation in each and every case we handle, regardless of the nature of the injuries and amounts involved.

We are looking forward to serving you.

Fraternally yours,



C. Marshall Friedman

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ST. LOUIS, MISSOURI 63101  
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1-800-231-7636  
FAX: 314-421-8843  
www.marshallfriedman.com

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St. Louis, MO  
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Dear Friends:

I am once again very pleased to advise of yet another successful jury trial, this time on behalf of carman Gary Vaughn. Gary worked for the CSX Transportation, Inc. at its Wixom, Michigan Yard. He sustained serious back injuries when thrown about in a Mitsubishi utility vehicle while traveling over a poorly maintained crossing. Gary's injuries required three (3) back surgeries, unfortunately resulting in his inability to return to work.

Our position was that CSX had failed to properly maintain the crossing over which Gary was traveling when injured. It was our contention that the railroad had neglected the crossing for a number of years resulting in its deterioration, so that the Mitsubishi vehicle which had hurt, foam filled tires and a thin padded seat without any spring suspension, was unsafe to operate over it. CSX argued that the vehicle was safe to operate over the crossing.

CSX made no offer whatsoever to settle and was confident that it would win at trial. However, following a four day trial, the Wayne County (Detroit) Circuit Court jury returned a verdict in Gary's favor, awarding him \$825,000.

As is the situation in all cases, Gary's results were based on the particular facts of his case. Each case is unique, so it cannot be assumed that similar results will be achieved in other cases. In any event, we will continue to provide the same high quality representation in each and every case we handle regardless of the nature of the injuries and the amounts involved.

We are looking forward to providing you with assistance should the need arise.

Fraternally yours,



C. Marshall Friedman

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Dear Friends:

I am pleased to advise that we recently completed a successful jury trial on behalf of Richard Owens against the CSX Transportation Company, Case No. 07-706248 NL. The case was tried in the Circuit Court of Wayne County, Michigan.

Richard is and has been employed as a carman by CSX. He sustained cumulative trauma injuries to his right shoulder in the course of his employment while opening auto rack end doors, installing/removing auto rack bridge plates and adjusting movable B-decks on tri-level cars. CSX had allowed the railmen assigned to its Wixom Ford Plant pool to deteriorate to the point that great and excessive stress and strain was required to close the freight car end doors, lift the racks and perform the assigned work. As a result of the excessive stress and strain, Richard sustained a right shoulder rotator cuff tear and rotator cuff impingement. He underwent surgery to repair his injuries. At the time of trial, Richard had returned to work and had been working full time for approximately two years without restrictions.

It was our position that CSX failed to have adequate help and failed to provide sufficient manpower to perform necessary periodic repairs to the auto rack end doors, the tri-level B-decks and their components. CSX contended that Richard and the other carmen could and should have made the repairs themselves, the work was not that strenuous and the railroad did provide safe conditions and equipment for the employees to complete their work.

Prior to trial CSX offered \$5,000 to settle this case. Following a five day trial, a unanimous eight person Wayne County Circuit Court jury returned a verdict awarding Richard \$25,000 for his net wage loss and \$210,000 for pain and suffering for a total of \$235,000.

Obviously, the results in this case were based upon unique facts, and are not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought the foregoing would be of interest. With best wishes and warmest personal regards, I remain,

Fraternally yours,



C. Marshall Friedman

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Dear Friends:

We are pleased to report that, for the fourth year consecutive year, we have been selected to be included in the annual Woodward/White publication of *The Best Lawyers in America*.

*The Best Lawyers in America* is widely regarded as the most respected guide to the legal profession in the United States. The "Best Lawyers" list includes all 50 states and Washington, D.C. The list is compiled through a survey in which thousands of lawyers and judges in the United States confidentially evaluate the candidates. Only 2% of all lawyers in the United States are selected for this most prestigious list for which no lawyer can pay to be included. The current edition of "Best Lawyers" (2008) is based on more than 2 million confidential evaluations by only the top attorneys. As in the past, we are proud to have been chosen for this honor. *St. Louis Magazine* has recently recognized our firm for this achievement.

Our firm has also been acknowledged for its high professional legal standards and ethics in the 2008 *Bar Register of Prestigious Lawyers*. For over 50 years, the Martindale-Hubbell Bar Register has been limited only to the most distinguished law practices; those that have achieved the AV rating in the Martindale-Hubbell Law Directory. The "A" signifies the highest level of legal ability, while the "V" denotes very high adherence to the professional standards of conduct, ethics, reliability and diligence.

We are very proud of our accomplishments and constantly strive to provide our clients with the highest quality legal representation. Our firm has always been dedicated to this challenge and we will continue to provide the best possible legal representation available.

If we can be of any assistance to you, your family or friends, please do not hesitate to call.

With best wishes and warmest personal regards, I remain,

Fraternally yours,



C. Marshall Friedman

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Dear Friends:

I am pleased to advise that we successfully concluded Isaac "Ike" Scott's case for injuries sustained in the course of his employment by the Union Pacific Railroad Company. Ike had been employed by the carrier for over 25 years as a journeyman carman at the Armstrong Yard in Kansas City, Kansas.

On the day of his injuries, Ike was instructed to assist a fellow carman to place new cribbing under a crane base that had been loaded on a flat car. The existing blocks originally used for cribbing under the base had become damaged and the load was intense. The base needed to be jacked so that the old damaged blocks could be removed and new cribbing blocks placed under the base. Ike was instructed by the supervisor in charge to manually lift the end of a 12' long railroad tie that was going to be cut by blocking. His fellow employee had been sent to retrieve additional ties. Therefore, Ike was required to perform the lift alone. He was in a swayed position, lifting up on one end of the tie when he sustained injuries to his lower back.

Our position was that the railroad had used a makeshift tie loop or boom crane to move the tie. The railroad contended that Ike caused his own injuries by failing to ask for help, failing to suggest the use of tie tongs or a boom, or failing to wait for his fellow employee to return with the blocks. The supervisor testified that he did not object to Ike doing the lifting alone and that the above alternatives did not occur to him.

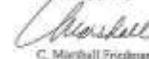
As a result of the foregoing, Ike underwent conservative treatment to his lower back, including several epidural steroid injections and physical therapy. He ultimately underwent surgery involving percutaneous disc decompression. He has qualified for an occupational disability and has not returned to his railroad employment.

Following the completion of extensive trial preparation, Ike received the sum of FOUR HUNDRED TWENTY FIVE THOUSAND DOLLARS (\$425,000.00).

Obviously, the result of this case was based upon unique facts, and is not necessarily a precedent for other cases. In short, you should not assume that this is a result that can be achieved in other cases.

I thought the foregoing would be of interest. With best wishes and warmest personal regards, I remain,

Fraternally yours,



C. Marshall Friedman

CME/jar

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KENNETH E. BUDO  
ANDREW E. WILLIAMS  
PAUL A. BURNETT  
SCOTT A. FRIEDMAN  
TAMAR M. HAMD

LAW OFFICES  
C. MARSHALL FRIEDMAN  
A Professional Corporation  
THIRTEENTH FLOOR  
810 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-421-4800  
TOLL FREE  
1-800-215-7626  
FAX: 314-421-4843  
www.marshallfriedman.com

Office & Field  
Representatives  
St. Louis, MO  
Dedora, MO  
Kansas City, MO  
Little Rock, AR  
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# ST. LOUIS POST-DISPATCH

FRIDAY | JUNE 22, 2007 | FOUNDED BY JOSEPH PULITZER IN 1878 | STLTODAY.COM | 50¢

Dear Friends:

I wish to advise of a recent trial I concluded involving a railroader's son. The father and two sons, Al, age 27, and his younger brother, were at Home Depot to pick up a large piece of equipment they had rented. Home Depot had loaded the equipment on to a heavy haul base model trailer. A Home Depot employee requested Al to help connect the trailer to their automobile for transporting. Suddenly, the weld on the jack stand support brace broke, causing the trailer to fall and strike Al's left leg resulting in severe injuries.

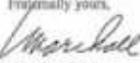
Hospital emergency room x-rays revealed fractures of the medial tibial plateau extending into the femoral tibial joint (knee). A CT scan revealed that the multiple fractures were fragmented and severely damaged the knee joint. Al underwent surgery involving the use of wires, screws and bolts in the knee joint. The surgeon used K-wires and drilled into the fractured parts in order to use multiple screws and bolts to secure the fractured bone. Four long screws and multiple bolts permanently secured the fractured bone. As a result of the severe fracturing of the bone and cartilage in the knee, Al developed post-traumatic osteoarthritis and permanent, progressive, cartilage damage. He underwent a second surgical procedure on March 27, 2007, involving shaving of the irregular cartilage surfaces of the knee. Al's surgeon testified that as a result of the fractures and cartilage damage, his knee is basically bone on bone. He is unable to put weight or pressure on the leg and cannot walk without the support of a cane. Al will require future knee replacements. Because of his young age, the physicians approximate two or three future knee replacement surgeries. Each knee replacement surgery will involve the amputation of bone with risks of additional fractures, infections and complications. Al is married with small children at home. He is unable to engage in manual activities and is therefore unemployable.

Home Depot contended at the trial that Al's condition is not very serious and that Al has complicated his injuries and recovery by missing therapy appointments that were prescribed by his surgeon. Home Depot also contended that Al caused additional damage to his knee by failing to follow the doctor's recommendations.

I am pleased to advise that following this one week trial, the jury awarded Al the sum of two million dollars (\$2,000,000.00).

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Respectfully yours,  
  
C. Marshall Friedman

## Metro

ST. LOUIS  
Man awarded \$2 million  
for injury in store

A St. Louis jury awarded \$2 million Thursday to a man injured when a trailer fell on him at the Home Depot store on Kingshighway in June 2005.

Employees at Home Depot had loaded a trailer with heavy equipment that Al Pollard, 28, of St. Louis, needed for a repair job. Pollard, who was self-employed as a contractor, suffered permanent injury to his leg when a jack stand broke and the trailer fell on him.

The attorney for Pollard and his wife, Monica, said Al Pollard cannot work because of his injury. Doctors implanted screws and bolts into his leg to repair the damage, but he will eventually need a knee replacement, the attorney said.

Attorneys for Home Depot argued that Al Pollard's injury was not serious. After hearing more than two days of evidence in the court of St. Louis Circuit Judge Robert W. Dierkes, jurors deliberated for an hour and a half to reach their verdict.

The jury also awarded \$75,000 to Monica Pollard, 31, for loss of services.

Dear Mr. Friedman,

I just wanted to let you know that you are still in my thoughts. It's been 10 years now since you represented me and obtained a settlement from the BN Railroad. Against all odds, I have still managed to maintain the original amount of settlement in my brokerage account. I have saved the principal and have spent the profits for living expenses. Some years I have made more than others, but I have never dipped into the principal so that I can ensure a reasonable financial future. Without your assistance, I would simply not have been able to meet my financial obligations over the years. You, financially speaking, saved my life. I now have my 7 year old son in a private school and am giving him numerous lessons, i.e., tap, swimming, tumbling, scouting, etc. He is thriving and I am so happy that I can afford to give him an enriched childhood, which would also have been impossible without your assistance. I mention your name and your firm's reputation to others when the occasion arises. And I am glad when I hear of your current successes against the various railroads.

I hope all is well with you and your family this holiday season.

With heartfelt gratitude,



Enclosure: Picture of my son

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C. MARSHALL FRIEDMAN

C. MARSHALL FRIEDMAN  
KENNETH E. BUDO  
ANDREW E. WILLIAMS  
PAUL A. BURNETT  
SCOTT A. FRIEDMAN

A Professional Corporation  
THIRTEENTH FLOOR  
810 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-421-4800  
TOLL FREE  
1-800-215-7626  
FAX: 314-421-4843  
www.marshallfriedman.com

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April 6, 2007

Dear Friends:

I am pleased to advise that we successfully concluded the case of Gary Taylor against the Union Pacific Railroad Company for injuries sustained on the job. Gary had been employed for over fifteen years as a F&O, machinist and carman apprentice by the Union Pacific Railroad Company, and it's predecessor, Cottonbelt Railroad, at the Fine Bluff, Arkansas facilities.

On the day of his injuries, Gary was assisting a journeyman carman in opening a sliding door of a damaged boxcar. One of the sliding doors of the boxcar had previously fallen off and they were intending to place the fallen door into the car to be "home shopped." Gary was assisting in opening the remaining door. As requested, Gary raised the locking pin above the level of the catch to permit the other carman to nudge the door open with a forklift. When that was completed, Gary turned to walk away from the car. The door suddenly fell off the door track, striking him on the back and causing severe injuries.

It was our position that the railroad failed to conduct a job safety analysis and secure the remaining door to prevent it from falling. The railroad contended that the damage was caused by a third party contractor and that the railroad was not responsible.

As a result of the foregoing, Gary sustained severe injuries, including fractures of numerous ribs, vertebrae, and damage to the lungs and surrounding tissue. Gary was required to undergo multiple surgeries to fuse and stabilize the spine. Although Gary regained the use and movement of his body, he experiences constant pain and discomfort. He is on an occupational disability.

Following the completion of extensive trial preparation, Gary received the sum of ONE MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$1,800,000.00).

Obviously, the result of this case was based upon unique facts, and is not necessarily a precedent for other cases. In short, you should not assume that this is a result that can be achieved in other cases.

I thought the foregoing would be of interest. With best wishes and warmest personal regards, I remain,

Respectfully Yours,

  
C. Marshall Friedman

C. Marshall Friedman  
Attorney at Law  
St. Louis, Missouri

On June 6, 1994, only 7 days out of high school, I began what I hoped to be a career with the BNSF Railway. On January 14, 2001, I was involved in an accident which followed with two failed drug tests that effectively ended my days in the industry. What followed was 5 years of alcoholism and substance abuse, basically no work and a sub-poverty level existence.

Though I felt I might have some sort of claim for carrier liability in the originating accident I had no blood or broken bones, not even a hand-aid which made it very difficult for medical leverage of any kind. I had no money or insurance so even psychiatric help was out of the question. Three law firms were contacted regarding my case and all quickly shied away as we all know that the failed drug tests were a very difficult obstacle to overcome and why take on damaged goods when so many other clear cut personal injury cases are available for a lot more money and a lot less complication. At my lowest point of depression a friend of my father suggested that he had also had three rejections of his own case when the Marshall Friedman Firm did not only accept his case but did indeed win him a very good settlement. It was truly a turnaround in my life when you said to me "I think we can handle this case." At last and finally I had a friend who was not afraid to take on a sinking ship and keep me alive with hope for the next two years. You have no idea, at last I felt that there may really be a tomorrow for me.

After making a shambly of my life and affording you no real assistance, you and Ken Rudz pressed on in spite of my shortcomings. Yesterday you presented me an award tax free from the BNSF Railway. It is a mountain to me who has never had more than \$50 in my name in over five years. At 30 years of age I can now look forward with hope for the second half of my life. It will not be a cakewalk but I now have an honest to goodness chance and I will try my best not to miff it.

My case was probably as poor as you have ever handled with two failed drug tests and not documented injuries. I absolutely realize that all I had left in this world was the strength and credibility of the Marshall Friedman Law Firm in my corner. You guys saved me and gave me another chance in life. Thank you from the bottom of my heart and hope and pray that I do not disappoint you.

Sincerely Yours,



Brett Stovick

Mr. C. Marshall Friedman, P. C.  
Thirteenth Floor  
1010 Market Street  
St. Louis, MO 63101

Dear Marshall,

I want to thank you and your team for the outstanding representation afforded me in connection with my back injury claim against Union Pacific railroad. The results you and your team produced on my behalf are absolutely stunning and according to Union Pacific are completely unprecedented. My family and I can never thank you enough.

When I met you I was in pain, my financial future was bleak and I was uncertain how to proceed but you told me that you would make every effort to ensure that I receive fair and just compensation for my injury. True to your word, you and your team left no stone unturned in developing the evidence in support of my case.

Marshall, you are a true master in the courtroom. I look back on that week during the trial and I am still amazed at your complete mastery of so many highly complex disciplines.

In conclusion, I still have pain in my back but thanks to Ken Rudz, Paul, Steve, Dana and other team members, but most especially, Mr. C. Marshall Friedman, P. C., the financial future of my family is secure.

Sincerely, your client and friend,

  
Alstacey Hayes

**LAW OFFICES  
C. MARSHALL FRIEDMAN**

A Professional Corporation  
THIRTEENTH FLOOR  
1010 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-421-4400  
TOLL FREE  
1-800-252-7026  
FAX: 314-421-8845

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San Antonio, TX

C. MARSHALL FRIEDMAN  
KEVIN E. HIGGS  
ANDREW E. WILLIAMS  
PAUL A. BOEHMERT  
STEPHEN J. MOORE

Dear Friends:

As many of you know, we recently concluded a successful jury trial for our client, Al Hayes, against the Union Pacific Railroad Company. At the conclusion of the trial, the jury returned a verdict in Al's favor, awarding him the sum of twelve million dollars (\$12,000,000.00).

The Union Pacific Railroad Company is the largest railroad operating in the United States. There have been thousands of jury trials against the Union Pacific since the Federal Employers Liability Act was enacted by Congress approximately 85 years ago. The jury's verdict in Al's case is the largest award ever against the largest railroad in the United States. To have reached this milestone, one that has never been achieved by any other law firm, is an accomplishment of which we are *VERY, VERY* proud!

I am enclosing for your information a copy of the introductory page to the legal memorandum filed by the UP in court after the trial. I believe that you will find it very interesting.

I assure you that we will continue to provide this type of representation to all of our clients, regardless of the size of the case. We look forward to continuing to serve you, your family, your friends, and your fellow workers.

With best wishes and warmest personal regards, I remain,

Fraternally Yours,



C. Marshall Friedman

CMF/lor

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI

ALSTACEY HAYES,

Plaintiff,

vs.

UNION PACIFIC RAILROAD  
COMPANY, a corporation,

Defendant.

Cause No. 012-9799

Division No. 18

**SUGGESTIONS IN SUPPORT OF DEFENDANT UNION  
PACIFIC RAILROAD COMPANY'S MOTION FOR A NEW TRIAL  
OR, IN THE ALTERNATIVE, FOR AN ORDER OF REMITTURE**

By any yardstick, the \$12 million verdict returned by the jury in favor of plaintiff Alstacey Hayes is stunning. In the 85-plus years of FELA litigation against defendant Union Pacific - including cases of death, dismemberment, and total and permanent disability - it is by far the largest award ever. It exceeds by \$11.75 million the largest verdict returned in this Court, going back to at least 1992, for an unopened back injury with little or no accompanying lost income, and is more than \$11.5 million greater than a number of awards approved or mentioned in reported appellate decisions in this state for disk injuries even where there were surgeries and/or significant economic loss. The verdict surpasses awards to plaintiffs who suffered far more horrific and debilitating injuries than the herniated disk at issue here. It tops by at least 240% even the inflated figures suggested to the jury by plaintiff's counsel in his closing argument. It is wholly unsupported by the evidence, completely out of step with awards in similar cases, and cannot stand.

This Court presided over a trial that was relatively error-free. But as the Court is aware, there is no such thing as a "perfect trial," *Brown v. United States*, 411 U.S. 223, 222

C. MARSHALL FRIEDMAN  
KEITH H. FINE  
JEFFREY L. CHUBB  
FRANCO B. ADAMETZ  
ANDREW S. WILLIAMS  
PAUL A. HANNEY

LAW OFFICES  
**C. MARSHALL FRIEDMAN**  
A Professional Corporation  
THIRTEENTH FLOOR  
1018 MARKET STREET  
ST. LOUIS, MISSOURI 63103  
314-621-8600  
TOLL FREE  
1-800-224-1536  
FAX: 314-621-8603

THOMAS R. HUNT  
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North Platte, NE  
Harrisburg, PA  
Chattanooga, TN  
Knoxville, TN  
Fort Worth, TX  
San Antonio, TX

Dear Friends:

I am pleased to advise that I just completed a successful jury trial on behalf of Attorney Hayes against Union Pacific Railroad Company, Case No. 012-9799. The case was tried in the Circuit Court of the City of St. Louis.

AI is employed as a customer service representative. He sustained injuries in the course of his employment while attempting to exit the UP building at 13<sup>th</sup> and Olive Streets in St. Louis. The terrazzo exterior surface of the Olive Street entry/exit way was extremely slick when wet. There were two terrazzo steps leading down to the terrazzo surface from the exit doors of the building. On the day of his injury, there were gusting winds and rain which soaked the terrazzo and created a wet, slick and dangerous condition. The wet slick terrazzo surface had been reported and complained of before AI's fall, however, no mats, handrails or stair strips were provided to reduce or eliminate the hazard. As AI exited the building, he attempted to step down from the bottom step to the surface. As he placed weight on his front foot, AI's feet slipped out from under him and he became airborne. He fell on his lower back and gluteal areas (buttock). As a result of this fall, AI sustained severe and disabling spinal, disc and peripheral nerve injuries and damages.

Initially after the fall, AI experienced numbness in the right hip. Over the succeeding days and weeks, AI gradually developed low back pain, leg pain and discomfort. The pain and discomfort became worse over the succeeding four to five weeks. Finally, approximately five weeks after the fall, AI attempted to perform some yard work and raking. He was unable to complete the task because of severe pain. AI visited his doctor and an MRI was obtained. The MRI confirmed a broad based bilateral disc herniation and protrusion encroaching upon the spinal canal, overlapping the vertebral bodies, traversing the nerve root sleeves and causing swelling and enlargement of nerve roots. These broad based bilateral

injuries resulted in disc fragmentation and sequestration, compressing the dural sac, the S1, S2 and L5 nerve roots.

AI is 52 years of age. He has undergone extensive care and treatment, including a variety of physical, therapeutic, anti-inflammatory and conservative measures. His physical limitations and lifting restrictions prevent him from lifting or engaging in many activities with his young son. Although surgery is an option, AI's doctors testified that surgery would involve both sides of the spine, very extensive fusions with bone and hardware, and attendant risks as to the outcome. AI could be much worse after surgery. He will deteriorate and get worse with age.

The Railroad contended that AI was not injured in the fall. The Railroad's position was that AI had been injured while taking leave at home. In addition, the Railroad argued that it had sealed the terrazzo surface with a skid inhibiting sealant and had done everything possible to make the entry/exit way safe.

At the conclusion of a one week trial, the jury returned a verdict in AI's favor and assessed his damages in the sum of twelve million dollars (\$12,000,000.00).

Obviously, the result in this case was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Fraternally yours,



C. Marshall Friedman

CMF:bnb  
Enclosure

## ST. LOUIS POST-DISPATCH

36

ST. LOUIS

### Man who slipped and fell gets \$12 million

A St. Louis man who slipped and fell on a two-inch floor over a \$12 million jury award from Union Pacific in St. Louis Circuit Court last Thursday.

Attorney "Al" Hayes said Union Pacific in 2001 after a fall Nov. 2, 1998. The suit claimed the railroad knew people had slipped on the terrazzo floor at the building at 13<sup>th</sup> North Oak Street in St. Louis in the

past and did not take any proper steps to fix it.

Hayes, 52, argued he never had, slips and falls in the fall, said Kenneth Friedman, one of his lawyers. "He's able to get around, but with difficulty and with pain," Friedman said.

A Union Pacific lawyer could not be reached for comment Friday afternoon.

# Omaha World-Herald

AN INDEPENDENT NEWSPAPER OWNED BY EMPLOYEES

## U.P. to contest worker's \$12 million injury award

By Kevin Cook  
WORKERS/INVESTMENT CENTER

A \$12 million civil judgment rendered Thursday against Union Pacific Railroad will be contested, a company spokesman said.

A federal court jury in St. Louis last August ruled, 52, the railroad to be compensated for it.

going to be back in a fall of a wet terrazzo floor at the railroad's St. Louis office in November 1998.

Mark Davis, a railroad spokesman, said the company will not Judge Robert Ocker to make a determination.

"If need be, we will appeal," Davis said. The company had no further comment. See U.P. Page 2.

## U.P.: Railroad plans to contest worker's \$12 million injury award

Continued from Page 1  
Hayes was leaving his job as a U.P. customer representative when the accident occurred.

His lawyer, Marshall Friedman of St. Louis, said the railroad argued that Hayes wasn't on the job when he was injured and that the company couldn't be liable for the floor condition.

"They failed to take proper precautions," Friedman said. "In wet rain, and they didn't put down mats or barricades or anything. Union Pacific knew the floor was dangerous."

Other employees testified

during the four-day trial that they had told company officials of the floor's unsafe condition, Friedman said.

Hayes was transferred to the company's Omaha headquarters in 2004 when the St. Louis office closed, and he plans to resume working for the railroad, Friedman said. Hayes lives here with his wife and son.

"The prognosis is he won't get better and that he will continue to get downhill," Friedman said. "Mr. Hayes, however, wants to continue working as long as he can."

Dear Marshall:

I would like to thank you for taking my case for the hearing loss against the Union Pacific RR. As a result, your firm successfully achieved an award for that loss. Although the loss to my hearing cannot ever be corrected, this award somewhat gives me the satisfaction knowing that the Union Pacific has accepted the responsibility for this loss.

Sincerely,



William E. Smith  
621 Dodson Lane  
De Soto MO 63020  
636-586-8645

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C. MARSHALL FRIEDMAN**

A Professional Corporation  
THIRTEENTH FLOOR  
1015 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-621-8400  
TOLL FREE  
1-800-255-7636  
FAX: 314-621-8443

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PATRICK E. O'BRIEN  
DOUGLAS R. RUSH  
THOMAS P. McDERMOTT  
THOMAS L. BELL  
JEFFREY E. CHOD

Dear Friends:

I am pleased to advise that we recently concluded a complicated jury trial in behalf of Rosie C. Scott against National Railroad Passenger Corporation (Amtrak), Case No. BC 201 824. The case was tried in Los Angeles, California. Rosie was employed as a coach cleaner in Los Angeles, and sustained injuries in the course of her employment by Amtrak.

After 4 1/2 years of employment by Amtrak, Rosie underwent surgery for a ruptured disc in the low back. It was contended that the surgery was required because of cumulative trauma which was sustained over a period of time during her employment. She also had an unreported injury on-the-job involving the lifting of a box and a minor off-the-job auto collision. She was able to return to work following surgery and was working full-time performing full duties when she sustained yet another injury.

Rosie was cleaning the exterior of a car and fell over a pallet of metal springs which had been placed by the railroad in the work area. She sustained injuries to her lower back. It was our contention that Amtrak was negligent in placing the springs in an area where coach cleaners were required to perform employment duties, and that the area was additionally unsafe because of poor lighting and an uneven working surface. Amtrak contended that the lighting was sufficient and that the uneven working surface and pallet of springs did not present hazards or unsafe working conditions. Following the fall, tests revealed that Rosie had again sustained a ruptured disc. She has been unable to return to her railroad employment duties.

Following a 2 1/2 week trial, the jury found in favor of the railroad on the cumulative trauma and the unreported box lifting occurrences. With regard to the fall, I am pleased to advise that the jury found in our favor and awarded Rosie the sum of TWO MILLION TWO HUNDRED AND EIGHT THOUSAND DOLLARS (\$2,208,000.00).

Obviously this result was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Respectfully yours,



C. Marshall Friedman

CMF/jna

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C. MARSHALL FRIEDMAN**

A Professional Corporation  
THIRTEENTH FLOOR  
1015 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-621-8400  
TOLL FREE  
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FAX: 314-621-8443

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Fort Worth, TX  
San Antonio, TX

Dear Friends:

I wish to advise that we recently received a favorable opinion from the Supreme Court of Missouri in the case of Garry Giddens versus the Kansas City Southern Railway Company. Garry was injured when a chain attached to a crane broke causing a track assembly to fall on his hand. Treatment for the hand injuries included 6 surgeries. Despite the treatment, Garry was unable to return to work. At the time of trial, Garry was 44 years old with a high school education. His future employment opportunities would be limited to light and sedentary work requiring limited use of his hand. The jury returned a verdict in the sum of ONE MILLION FIVE HUNDRED TWENTY THOUSAND DOLLARS (\$1,520,000.00) which was affirmed by the Supreme Court.

Of particular interest in this case was the trial courts admission of OSHA regulations as evidence of the railroad's negligence. During the trial, the court permitted the introduction of OSHA regulations concerning the testing, inspection and labeling of the chain that broke. We contended that the KCS violated the OSHA regulations by failing to test, inspect and tag the chains. On appeal, the railroad contended that the admission in evidence of the OSHA regulations was error. In its opinion, the Supreme Court held that it was not error for the trial court to admit in evidence the OSHA regulations and their alleged violation by KCS.

Obviously, the result in this case was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

The railroad has requested the United States Supreme Court to review this opinion. We will keep you advised of further developments.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Respectfully yours,



C. Marshall Friedman

CMF/jna

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C. MARSHALL FRIEDMAN**

A Professional Corporation  
THIRTEENTH FLOOR  
1015 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-621-8400  
TOLL FREE  
1-800-255-7636  
FAX: 314-621-8443

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PATRICK E. O'BRIEN  
DOUGLAS R. RUSH  
THOMAS P. McDERMOTT  
THOMAS L. BELL  
JEFFREY E. CHOD

Dear Friends:

I am pleased to advise that we have concluded the case of David Fountain against CSX Transportation, Inc., Case # 98-711-CA-01. The case was tried in Pensacola, Florida. David was employed as a service attendant for 17 years. He sustained injuries as a passenger in a pickup truck driven by another employee when the driver lost control and struck a tree.

Mr. Fountain lost consciousness; briefly and sustained extensive soft tissue injuries. He sustained injuries to his neck, upper back, lower back, left shoulder and left hip. He underwent extensive medical care and treatment including physical therapy, traction and rehabilitation. His injuries primarily involve the soft tissue, disks and nerves surrounding the spine.

Mr. Fountain returned to his employment with the railroad and continued working until being re-injured. He received New York Desk protective benefits. Following his re-injury, he has not returned to his employment with the railroad.

At the trial, the railroad did not contest liability. It contended that Mr. Fountain's injuries were not serious and that it offered other employment opportunities to Mr. Fountain, however, he refused to accept other employment at other locations on the railroad. Mr. Fountain contended that he was unwilling to move because of the on-going pain, discomfort and disability.

Following the trial of this case, the jury found in our favor and awarded David the sum of SIX HUNDRED SEVENTY ONE THOUSAND FOUR HUNDRED EIGHTY DOLLARS (\$671,480.00).

Obviously, this result was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Respectfully yours,



C. Marshall Friedman

CMF/jna

**LAW OFFICES  
C. MARSHALL FRIEDMAN**

A Professional Corporation  
THIRTEENTH FLOOR  
1015 MARKET STREET  
ST. LOUIS, MISSOURI 63101  
314-621-8400  
TOLL FREE  
1-800-255-7636  
FAX: 314-621-8443

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Knoxville, TN  
Fort Worth, TX  
San Antonio, TX

Dear Friends:

I am pleased to advise that we recently concluded the case of Thomas A. Pretty against Norfolk Southern Railway Company, Case No. 00-C-384. Tom was employed in the NS Sheffield, Alabama Shop as an electrician at the time of his injury. He was seated in the cab of a locomotive which was struck by a consist. The impact caused Tom to hyperextend his head, back and spine resulting in injuries to his spine and fracturing of several teeth. He initially underwent conservative treatment, anti-inflammatory medication and physical therapy. A CT Scan and myelogram revealed a herniation at T6-B. The spinal injuries were complicated by degenerative changes of the spine which pre-dated this occurrence. In addition, Tom had long standing Meniere's Disease. Ultimately, Tom underwent a microscopic thoracic discectomy to remove disk fragments.

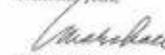
Tom was unable to return to his employment and was awarded a disability annuity by the Railroad Retirement Board. We were able to settle Tom's case for a gross settlement of \$600,000.00.

Obviously, the result in this case was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Respectfully yours,



C. Marshall Friedman

CMF/jna

3301-36<sup>th</sup> Street West  
Birmingham, AL 35208-2111

Law Offices  
C. Marshall Friedman  
Thirteenth Floor  
1010 Market Street  
St. Louis, MO 63101

Dear Sirs & Madams;

I would like to personally thank everyone on your staff for the work you performed in reaching my settlement award with Norfolk-Southern Railway. My life has certainly changed and I really appreciate the patience and co-operation everyone showed whenever we made contact. I hand-wrote this thank you note to show how much I really would like to thank each of you ~~in~~ person. Once again Thank You.

You are always in my prayers  
James W. Johnson  
James W. Johnson

Mr. Marshall Friedman  
Attorney at Law  
Thirteenth Floor, 1010 Market Street  
St. Louis, Missouri 63101

Dear Mr. Friedman and Staff,

We want to thank you for all the hard work you did in getting our case settled. We know this is everyday work for you but for us it was venturing into unknown waters. However, there was never a moment that we ever doubted you would do the right thing and as usual, you did not disappoint us.

Everyone on staff made us feel we were the most important clients you had and no questions, and there were many, ever went unanswered. We were always treated with respect and dignity. These two qualities are often hard to find in the professional world of today.

We went into this knowing that no matter how bad things got or how bleak a favorable outcome might appear, you and your staff would be there for us 100% and you were. Please know that we will continue to think of you with the deepest of respect and friendship. We continue to refer others to you. We have hopefully persuaded Mr. J.C. Culbreth to contact you for representation.

Sincerely yours

G. Alan and Susan Ramick  
G. Alan and Susan Ramick

P.S. Please give Mr. Kenneth Radd a special thanks for all his hard work and support. He is a great asset to your team!

Dale A. Williams  
3805 N. 31st Street  
Ozark, Missouri 65721

To the firm of C. Marshall Friedman:

I am writing this letter to somehow show my gratitude for the handling of my claim against the B.M.S.F.R. A person does not really realize how quickly life can change until it happens to you.

I knew of the professionalism of the C. Marshall Friedman firm for many years prior to my injury and when my injury occurred there was no doubt in my mind who to contact for the assistance in the handling of my claim.

My hat is off to all involved in the handling of my claim and you will not be forgotten!

It is also reassuring to know that you are there to help others with their situations.

If it were not for the firm of Mr. Friedman I feel many railroad workers would be set aside and not receive the benefits that they are due.

To you and your staff I appreciated the courtesy, professionalism, and respect that you showed myself. I wish you continued success, and I am proud to have had an association with such a group of people that is with the law firm of C. Marshall Friedman!

In closing I remain,

Dale A. Williams  
Dale A. Williams

LAW OFFICES  
C. MARSHALL FRIEDMAN

A Professional Corporation  
THIRTEENTH FLOOR  
1610 MARKET STREET  
ST. LOUIS, MISSOURI 63103  
314-521-8400  
TOLL FREE  
1-800-333-7638  
FAX: 314-521-8843

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THOMAS P. MADENMOTT  
THOMAS L. BELL  
JEFFREY E. CHOD

Dear Friends:

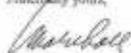
I am pleased to advise that we recently concluded the case of Michael Burger against Norfolk Southern Railway Company, Cause No. 952-07056. Michael was employed as a boilermaker in Decatur, Illinois for approximately 15 years. At the shops in Decatur, Michael was exposed to excessive amounts of pigeon and bird droppings. The floors of the shops would be covered with bird droppings, and the sun would dry the bird droppings. The dried bird droppings would become air born with dust. In addition, laborers were required to use compressed air to blow dust off the rafters. Michael would often become engulfed in clouds of dust heavy laden with pigeon and bird droppings. He was also exposed to the droppings on the floors. The railroad never provided a warning that the bird droppings could be harmful.

Michael developed ocular problems which were diagnosed as ocular histoplasmosis. We contended that this condition resulted from Michael's exposure to pigeon and bird droppings on the job. The railroad denied that Michael's condition resulted from his employment. Unfortunately, Michael's treating physician testified that in his opinion 80%-90% of people living in the Mississippi and Ohio River Valleys would test positive for histoplasmosis. Given the fact that Michael lived his entire life in one of the two river valleys, Michael's physician testified that he could not say with any medical certainty where Michael contracted histoplasmosis. That testimony was extremely damaging to Michael's case. Nonetheless, we obtained supporting medical documentation and we were able to settle Michael's case for a gross settlement of \$225,000.00.

Obviously, the result in this case was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Fraternally yours,  
  
C. Marshall Friedman

CMF/jas

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KENNETH E. BUDO  
JEFFREY E. CHOD  
DANIEL D. EDNETT  
ANDREW E. WILLIAMS  
JOHN L. WILBERS  
PAULA BURNETT

DOUGLAS K. RUSH  
of counsel

Dear Friends:

Our law firm is constantly striving to improve the quality of our services to our clients and friends. The varied employment backgrounds and experiences of our representatives permit us to provide a variety of services and information relating to railroad safety, the Federal Railroad Administration, the Railway Labor Act, the Federal Employers' Liability Act, and other related matters. All sixteen (16) of our investigators and field representatives are former railroads with many years of experience in a variety of crafts. One of our field representatives is a former FRA Railroad Motive Power & Equipment Safety Inspector. Several of our field representatives are former Union Officers. We currently have offices and field representatives spanning the entire country, including Missouri, Arkansas, Nebraska, Oregon, Tennessee, Texas, East Coast, West Coast and Midwest, from Minnesota to Texas and Florida.

We are now pleased to advise that an outstanding individual, Jim Reese, has joined our firm in Chicago, Illinois. Jim is well known in the railroad industry. Until his recent retirement, he was employed for 35 years by the Travelers Insurance Company and the successor companies, Metra Health and United Health Care. Early in his career, Jim became involved with the various Health and Welfare plans administered by The Travelers, working with railroad employees and their families. He has worked with all of the major railroads and railway labor organizations and is familiar to railway labor leaders at the local and national levels.

Jim will be serving Chicago, Illinois and surrounding areas. He will be working on claims involving injuries sustained by railway employees in the course of their employment under the Federal Employers' Liability Act (FELA). Jim will participate in educational seminars, conducted by our firm, throughout the United States. In addition, he will contribute expertise in our representation of injured railroad employees and their families.

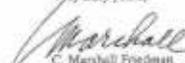
The addition of Jim Reese is yet another shining example of our firm providing the best possible representation to railroad employees, and their families, who have sustained injuries and can benefit from our help.

Our office has also recently added a bilingual assistant who will be available to our Spanish-speaking clients and friends.

We look forward to serving you!

With best wishes and warmest personal regards, I remain,

Very truly yours,

  
C. Marshall Friedman

CMF/jas

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JOHN L. WILBERS  
PAULA BURNETT

DOUGLAS K. RUSH  
of counsel

Dear Friends:

I am pleased to advise that we recently concluded the injury claim of Brandon Biolog against the Union Pacific Railroad Company.

Brandon was employed as a machinist by the Union Pacific Railroad Company at its North Little Rock, Arkansas facilities. He had been assigned to assist in the job of rebuilding locomotive pistons, which is similar to an assembly line process. As part of his job, Brandon applied a carrier and trap ring which secured the piston rod to the piston head. He then rolled the piston and rod to the conveyor and set the piston in a bucket on the conveyor. The bucket was secured in an upright position by a latch. The latch was supposed to be disengaged by stepping on a foot pedal that would allow the bucket with the piston and the rod to tip over at a desired time. Because of a defect in the latch, the bucket and piston suddenly and unexpectedly tipped over. Brandon reached and grabbed the piston and rod to prevent them from falling. As he did, Brandon took a severe pull in his lower back. Brandon had only worked this job for three days and had no knowledge of the defective latch. The railroad contends that Brandon did have knowledge and that he should not have reached and grabbed the bucket. It was our position that the railroad failed to provide proper training and warnings as to the dangers associated with the work.

This occurrence was not witnessed. Brandon did not fill out an accident report for several days nor did he report his injury to any supervisor. This obviously created a problem. He decided to wait in order to determine if the pain would improve. When it did not improve, Brandon reported the injury and the railroad threatened discipline.

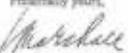
Ultimately Brandon underwent back surgery for a herniated disc in the lower back. Brandon elected not to continue his employment with the railroad and has been employed full time in the computer industry.

Brandon received the sum of \$685,000.00.

Obviously, the result in this case was based upon the unique facts in this particular case and is not necessarily a precedent for other cases. In short, you should not assume that this result can be achieved in other cases.

I thought that the foregoing would be of interest.

With best wishes and warmest personal regards, I remain,

Fraternally yours,  
  
C. Marshall Friedman

CMF/mab

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San Antonio, TX

Law Offices of C. Marshall Friedman, P.C.  
Thirteenth Floor  
1010 Market Street  
St Louis MO 63101

[www.marshallfriedman.com](http://www.marshallfriedman.com)