

Kaiser v. Union Pacific Railroad Company

Case Number

S-18-0636

Call Date

March 27, 2019

Court Number

Douglas

Case Location

Lincoln

Case Summary

S-18-0636 David A. Kaiser, Jr. (Appellant) v. Union Pacific Railroad Company

Douglas County District Court, Judge J. Michael Coffey

Attorneys: James R. Welsh (Welsh & Welsh, P.C., L.L.O.) and Maynard H. Weinberg (Weinberg & Weinberg, PC, LLO) for Appellant ? Kyle Wallor, Kate Geyer Johnson (Lamson Dugan & Murray LLP, for Appellee)

Civil: Negligent infliction of emotional distress under the Federal Employers Liability Act (FELA)

Proceedings Below: The trial court struck Appellant?s affidavit, because it contradicted his previous deposition testimony. It granted summary judgment after finding that there was no evidence to show a genuine issue of material fact as to whether Appellant was in the ?zone of danger.?

Issues: Whether the trial court erred in finding 1) that Appellant changed his testimony with regard to a material fact to meet the exigencies of the litigation and in excluding statements in his second affidavit; and 2) that there was no genuine issue of material fact as to whether railcars were moving in the yard where Appellant was located and in granting summary judgment on that basis.
