

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
RICHARD SHEPPARD ARNOLD UNITED STATES COURTHOUSE
500 W. CAPITOL, ROOM D444
LITTLE ROCK, ARKANSAS 72201-3325
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February 25, 2010

Mr. Scott H. Tucker
Friday, Eldredge & Clark, LLP - Little Rock
400 West Capitol Avenue, Suite 2000
Little Rock, AR 72201-3522

Re: Telephone Conference in *Cash v. Union Pacific*, 5:08CV00060-WRW.

Dear Mr. Tucker:

I am sending this letter to you since you are to prepare the precedent for an order based on my rulings on the Motions in Limine today.

I am granting Defendant's Motion #1. I will not give an instruction to the effect that this is not a workers compensation case. If I gave such an instruction, it seems to me that I probably ought, in fairness, allow the Defendant to show that Plaintiff has applied for rail road disability benefits.

I talked to the Honorable Leon Holmes about this, and I attach a copy of an instruction he gave in a case in which a juror sent out a question, asking if workers comp was involved. If a juror should ask such a question in this case, I will decide, at that time, what to do.

I am denying Plaintiff's Motion #10. With respect to Plaintiff's alleged lies, Defendant will be permitted to cross-examine Plaintiff about his false statement regarding college, and his false statement regarding his highschool grade point average. It appears to me that this is governed FRE 608.

I am taking Defendant's Motion #3 and Plaintiff's Motion #3 under "advisement" and will rule later. This should be noted in the order.

I believe this covers each point raised by both sides. The order should be based upon my rulings, *viva voce*, today during the telephone conference, and upon this letter. Plaintiff should advise me quickly of any objections to your precedent order.

Cordially,

/s/ Wm. R. Wilson, Jr.

Original to the Clerk of the Court
cc: Other Counsel of Record

JURY INSTRUCTION NO. 10

David Michael Graham is making a claim under the Federal Employers' Liability Act (FELA). That act, not the workers' compensation laws, governs work-related injuries for railroad employees.