IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NORMAN MCCAIN, : CIVIL ACTION : NO. 06-387

Plaintiff, :

:

V.

CSX TRANSPORTATION, INC.,

:

Defendant.

## ORDER

AND NOW, this 23rd day of April 2010, after consideration of Defendant's motion for summary judgment (doc. no. 24), it is hereby ORDERED as follows:

As to claims concerning Plaintiff's left knee,
Defendant's motion for summary judgment is **GRANTED**;

As to claims concerning Plaintiff's right knee,

Defendant's motion for summary judgment is **GRANTED** in part and **DENIED** in part. It is granted for claims based on the nature and size of the ballast, as precluded under <u>Nickels v. Grand Trunk W. R.R.</u>, 560 F.3d 426 (6th Cir. 2009), and it is denied for claims based on Plaintiff's "squatting, bending and climbing up and down locomotive ladders."

AND IT IS SO ORDERED.

S/Eduardo C. Robreno
EDUARDO C. ROBRENO, J.