

**IN THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

MARK W. COLLINS

1116 N. Michigan Street
Toledo, Ohio 43604

Plaintiff

vs.

CSX TRANSPORTATION, INC.

500 Water Street
Jacksonville, Florida 32202

Defendant.

CASE NO.

JUDGE

COMPLAINT WITH JURY
DEMAND ENDORSED HEREON

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Attorneys for Plaintiffs

Now comes Plaintiff Mark Collins, by and through the undersigned counsel, and for his complaint hereby avers and states as follows.

1. At all times hereinafter mentioned, plaintiff has worked on the defendant's railroad properties in various States including throughout the State of Ohio.

2. At all times hereinafter mentioned, the defendant CSX Transportation, Inc. (hereafter referred to as CSXT) is a corporation duly organized, created and existing

under the laws of the State of Ohio, and is and was at all times hereinafter mentioned a common carrier in interstate transportation and commerce by railroad.

3. This action arises under the Federal Employers' Liability Act, 45 U.S.C § 51 et seq.

4. This Court has proper jurisdiction as established pursuant to 45 U.S.C. § 56.

5. At all times hereinafter mentioned, plaintiff was employed by defendant and was engaged by the Defendant to perform duties in the furtherance of its business interests and movement of freight in interstate and foreign commerce by defendant railroad within the meaning of the Federal Employers' Liability Act, 45 U.S.C. § 51 et seq.

6. At all times relevant hereto, defendant CSXT acted by and through its agents, servants, or employees, who were acting within the nature of scope of their respective employments.

**AS FOR A FIRST CAUSE OF ACTION
THE PLAINTIFF ALLEGES**

7. Plaintiff repeats and realleges paragraphs numbered "1" through "6" as if more fully set forth herein.

8. Throughout his employment, plaintiff, in the performance of his duties as employee of the defendant, was exposed to excessive vibration, was caused to use excessive exertion and awkward postures and was required to perform repetitive motions using his hands and upper extremities which caused the plaintiff to sustain

severe and permanent injury to his hands, wrists, elbows, shoulders, upper extremities and nervous system.

9. Throughout his employment, plaintiff was continuously unaware of the dangerous effects of the vibration, excessive exertion, awkward postures and repetitive motions to which he was being exposed and which were the cause of severe and permanent injury to his hands, wrists, elbows, shoulders, upper extremities and nervous system.

10. Throughout plaintiff's employment, defendant knew, or in the exercise of proper diligence should have known, of the presence and existence of the aforementioned vibration within plaintiff's working environment, and of his ongoing required repetitive, awkward and forceful movements throughout the same period.

11. The injuries and damages to plaintiff was directly and proximately caused by the negligence of the defendant, its agents, servants or employees while acting within the nature and scope of his employment for defendant in the following respects:

- (a) defendant's violation of the Federal Employers' Liability Act;
- (b) defendant's violation of the Safety Appliance Act;
- (c) defendant's negligence in failing to provide plaintiff with a reasonably safe place to work;
- (d) defendant's negligence in failing to furnish plaintiff with the proper protective equipment;
- (e) defendant's negligence in failing to warn plaintiff of the dangers posed by the aforementioned vibrations and repetitive motions;

(f) defendant's negligence in failing to periodically inspect and/or texts its workplace;

(g) defendant's negligence in allowing unsafe practices to become standard practice and defendant's negligence in failing to comply with existing federal statutes and regulations.

12. As a direct and proximate result of the aforementioned negligence of defendant, plaintiff sustained carpal tunnel syndrome, tendonitis, severe and permanent injuries to his hands, wrists, elbows, shoulders, upper extremities and nervous system and the various component parts thereof, with attendant pain, suffering, anguish, debilitation, torment, loss of enjoyment of life, change of lifestyle, loss of wages and fringe benefits, loss of earning capacity, and medical expenses, all to his damages.

**AS AND FOR A SECOND CAUSE OF ACTION
THE PLAINTIFF ALLEGES**

13. Plaintiff repeats and realleges paragraphs numbered "1" through "13" as if more fully set forth herein.

14. Defendant was negligent in assigning the plaintiff to work in an environment which it knew it was dangerous, hazardous and would cause further damage to plaintiff's hands, wrists, elbows, shoulders, upper extremities, and nervous system.

15. Defendant was careless and negligent in assigning plaintiff to continue working in an environment containing excessive vibration and causing him to perform

repetitive, awkward and forceful motions when defendant knew the deleterious effects such an environment would have on him.

WHEREFORE Plaintiff prays for judgment against the Defendant, in an amount in excess of Twenty-Five Thousand (\$25,000.00) Dollars, plus costs, interest, attorney fees and such other relief this court deems proper.

Respectfully submitted,

s/ Charles E. Boyk
Charles E. Boyk
Attorney for Plaintiff

JURY DEMAND

Plaintiff hereby demands a trial by jury on all triable issues.

Respectfully submitted,

s/ Charles E. Boyk
Charles E. Boyk
Attorney for Plaintiff