FIRST DIVISION
March 23, 2015

No. 1-14-0110

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

AUBREY BOLDEN,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellant,	)	Cook County
	)	
v.	)	No. 09 L 15538
	)	
ILLINOIS CENTRAL RAILROAD COMPANY,	)	
d/b/a CANADIAN NATIONAL RAILWAY,	)	Honorable
	)	Kathy M. Flanagan,
Defendant-Appellee,	)	Judge Presiding.

JUSTICE HARRIS delivered the judgment of the court.
Justices Cunningham and Connors concurred in the judgment.

ORDER

Held: We hold that summary judgment was not proper in this case because the evidence, viewed in the light most favorable to plaintiff, the nonmovant, shows there are genuine issues of material fact concerning whether plaintiff's cause of action accrued outside of the statute of limitations.

¶ 1 Plaintiff, Aubrey Bolden, a former employee of defendant Illinois Central Railroad Company, filed suit against defendant alleging that his work as a carman for defendant caused

him to suffer osteoarthritis in his knees. Defendant filed a motion for summary judgment alleging plaintiff failed to timely bring his suit within the three-year statute of limitations period provided for in the Federal Employers' Liability Act (FELA). 45 U.S.C. § 56 (2006). The circuit court granted defendant's motion for summary judgment finding that plaintiff was aware, or should have been aware, that his knee injury was caused by his work as a carman with defendant more than three years prior to filing his suit against defendant. At issue is whether the circuit court erred in granting defendant's motion for summary judgment. We hold that summary judgment was not proper in this case because the evidence, viewed in the light most favorable to plaintiff, the nonmovant, shows there are genuine issues of material fact concerning whether plaintiff's cause of action accrued outside of the statute of limitations.

¶ 2 JURISDICTION

¶ 3 On October 21, 2013, the circuit court granted defendant's motion for summary judgment. On November 8, 2013, plaintiff timely appealed. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. Ill. S. Ct. R. 301(eff. Feb. 1, 1994); R. 303 (eff. May 30, 2008).

¶ 4 BACKGROUND

¶ 5 Plaintiff filed a single-count complaint against defendant on April 4, 2008. In his complaint, plaintiff alleged defendant employed him as a carman where he began "experiencing intermittent symptoms in his knees."[1] On or about April 20, 2007, defendant was diagnosed with osteoarthritis in his knees which he later learned was caused in whole or in part by his employment with defendant. According to plaintiff, the daily and continuous use of various

[1] Plaintiff did not state what intermittent symptoms he experienced as opposed to the pain he experienced near the time of his April 2007 diagnosis of osteoarthritis in his knees.

body positions, *i.e.*, crawling, kneeling, climbing, and squatting, he utilized while employed by defendant put undue stress and excessive force on his knees. Plaintiff alleged defendant exposed him to various risk factors associated with cumulative trauma disorders, failed to provide adequate footing, and required him to jump on and off of equipment. Defendant required plaintiff to work without personal protective devices, safe walkways, adequate manpower, mechanical assistance, or sufficient periods of rest. Plaintiff alleged defendant knew of both the hazards of the working conditions as well as various methods of reducing plaintiff's exposure to forces that would cause cumulative trauma to his knees, but did not warn him or implement such methods.

¶ 6 Accordingly, plaintiff alleged that his injuries, in whole or in part, were caused by the negligent acts of defendant as follows: failed to furnish a reasonably safe place to work; failed to furnish plaintiff with reasonably safe equipment; failed to furnish plaintiff with reasonably necessary and proper equipment; failed to furnish plaintiff with necessary and proper personal protective equipment; failed to furnish plaintiff with necessary and proper supervision; failed to warn plaintiff of reasonably foreseeable hazardous conditions existing on the equipment; allowed unsafe practices to become standard practices; assigned plaintiff work which it knew or in the exercise of reasonable care, should have known would result in injury; and assigned plaintiff duties that it knew or should have known were beyond his physical capacity, could aggravate injuries, or cause injury. As a result of defendant's actions, plaintiff alleged he sustained injuries.

¶ 7 On August 20, 2013, defendant filed its motion for summary judgment arguing that plaintiff failed to file his complaint within FELA's three-year statute of limitation period. 45 U.S.C. § 56 (2006). Defendant argued that both plaintiff and his wife, Sarah Bolden, admitted

they were aware of plaintiff's injuries as early as 1997 and knew the injuries were work related. Defendant attached a copy of plaintiff's complaint, and depositions from plaintiff and his wife, as exhibits to its motion.

¶ 8 Plaintiff testified that he started working for defendant in 1977 as a carman apprentice, which he described as a mechanic repairing and maintaining train cars. His duties included tightening bolts on ladders and handholds for various train cars, welding, and using a cutting torch to repair various parts of rail cars. As a carman apprentice, he performed his work in the shop, a building that was covered but had open sides. The tracks in the shop were in ballast[2] but there were concrete runners between the tracks. Approximately two years later, plaintiff became a setup carman and worked in the train yard. As a setup carman, plaintiff inspected freight cars and made light running repairs which he described as repairing air hoses and tightening bolts on safety appliances. He would carry with him a tool pouch which he estimated weighed "25, 30 pounds." He performed most of his duties as a setup carman on the ground, and he never experienced any knee pain during his time as a setup carman. When asked "do you believe that your work for [defendant] as a carman from 1979 to 1981 caused or contributed to your knee problems today," plaintiff responded "Long term, yeah." In 1981, he became a full carman. His duties, however, did not change. After working as a full carman for approximately six months, he was furloughed. A week later, defendant offered him a laborer's job at the roundhouse where he worked for approximately two months. He did not believe that his work as a laborer contributed to his future knee injury.

[2] Ballast is defined as "gravel or broken stone laid in a roadbed *** of a railroad to provide a firm surface for the track, to hold the track in line, and to facilitate drainage." Webster's Third New International Dictionary 167 (1981). Plaintiff, in his brief before this court, describes ballast as "gravel or coarse stone that is used to form the bed of a railroad track."

¶ 9 After being furloughed, plaintiff worked in several different jobs before returning to work for defendant in 1997. He worked for a short line railroad, Natchez Trace, as a carman in both the yard and the shop until late 1984 or early 1985. He did not believe his time at Natchez Trace contributed to his future knee injury because the yard at Natchez Trace was not ballast. After working for Natchez Trace, plaintiff worked for various employers as a fork lift operator, a warehouse manager, and as a welder.

¶ 10 In May of 1997, he went back to working for defendant as a full carman. From 1997 until 2007, plaintiff held various jobs with defendant including carman; supervisor; and yardmaster. During his time as a carman, plaintiff walked six miles a day and carried a tool pouch he estimated weighed 50 pounds. He further testified that most of the light running repair work he performed as a carman was done standing but that sometimes he would get down on his hands and knees to check draft gears and brake shoes.

¶ 11 In December of 2006, plaintiff started to suffer pain in his knees. He testified "I suffered pain that nobody should have to do." In May of 2007, he sought medical treatment. He agreed that he had experienced knee pain prior to that time, but stated that "[i]t just got to the excruciating point at that time." Defense counsel then showed plaintiff a copy of a medical record from Dr. Forbes McMullin, and the following colloquy occurred.

"Q. I'm going to show you what's been marked as Exhibit 1. Have you seen this record before?

A. Yeah.

Q. Okay. You'll see that on the first paragraph, it says: "History of present illness." Do you see that?

A. Yeah.

Q. Okay. Do you see where the doctor notes: 'The pain has been bothering him for the past 10 to 15 years?'?

A. I've had pain in my knee.

Q. *** On May 16, 2007, Dr. McMullin notes that you've had pain bothering you in your knee for the past 10 to 15 years. Is that an accurate statement?

A. That is the statement that he made.

Q. Right. And I'm asking you, is that an accurate statement that you've had knee pain for the past 10 to 15 years as of May 16, 2007?

A. I guess.

***

Q. Is it an accurate statement, Mr. Bolden, that on May 16, 2007, you had been having knee pain for the past 10 to 15 years?

***

A. I'm looking on here to see where he's giving a timeline at. Right there, it says, 'Pain's been bothering him for the past 10 to 15 years.' I see it.

Q. Okay. And - -

A. But, now, I did not tell him that my pain was from the past 10 or 15 years.

Q. So you don't know where he got that information from that the pain had been bothering you for the past 10 to 15 years?

A. This is true. I did not tell a specific timeline when the pain was bothering me. All I told him was when I went in there and told him that my knees are bad.

Q. Okay. So I'll ask again.

By May 16, 2007, is it an accurate statement that your knees had been bothering you for the past 10 to 15 years?

A. I guess, yes.

Q. Okay. And that would be both knees, correct?

A. Yes.

***

Q. When you had pain 10 or 15 years prior to 2007, did you believe that that knee pain was caused by your railroad work?

***

A. Ten years ago would be '97? Yeah.

Q. Okay. And that would be for both knees, correct?

A. Well, he's only stating it for one knee; but both of my knees have issues. But from '97 to then, yeah.

Q. Okay. So in 1997- - Just to clear it up, in 1997, you believe that the railroad work was causing pain in both of your knees correct"

A. Yes. But bear in mind, now, when I went to - - when I came back to this railroad to work, I underwent a physical."

¶ 12 At the end of the deposition, plaintiff's counsel asked plaintiff a series of follow-up questions regarding Dr. McMullin's report. Plaintiff described the pain he experienced in the

past as "just fatigue pains. It's just what you have when you go out and do a day's work. You're going to have that." He testified that it "never crossed [his] mind that that was going to escalate" because he "was young" and "didn't think it was going to go that far." Plaintiff further described any pain he suffered in the 10 or 15 years prior to Dr. McMullin's report as not "constant" or "severe" and explained "[i]t was just like you go out and you do a strenuous day's work, and you come in and you set down, and you have pain." Plaintiff first knew that he had a severe degenerative condition in his knees in May of 2007. When asked whether May of 2007 was "the first time that you were ever told by any physician that your work may have caused or contributed to this severe degenerative condition in your knees," plaintiff answered Dr. McMullin "told me this. And he also told me that walking on unstable ground and shifting ground would cause this."

¶ 13 Plaintiff's wife, Sarah Bolden, testified during her evidence deposition that she married plaintiff in 1991 after dating for 18 months. Defense counsel asked her a series of questions addressing her knowledge of plaintiff's knee pains. Sarah Bolden testified that prior to 1997, the date plaintiff returned to work for defendant; plaintiff had aches and pains but did not complain on a continual or daily basis. She testified that plaintiff "never pinpointed that it was this leg over this one or his back over his knees." She additionally stated that "[i]t wasn't really that often with the knees. Maybe once a week, depending on what he had done that day." Counsel later asked her if she had ever told plaintiff to go to the doctor prior to 1997, to which she responded "Well, he never complained a whole lot about the knees in particular." She added that plaintiff "was healthy when he went back to the railroad. So, I mean, he didn't have that much of a complaint." Plaintiff "would just take something for pain. Tylenol or whatever. And he would be okay with it."

¶ 14 Sarah Bolden testified that when plaintiff returned to the railroad in 1997, he complained to her that the rail yard was unsafe. She stated:

> "He would come home complaining about how he had to walk so far, checking out the train. It mostly would be his knees. He would complain. And I could tell when he walked in the door by his attitude that he didn't feel well. And most days, he would grab Tylenol or the Aleve and start taking them like regularly on a four hour - - you know, every four hours."

The change in plaintiff's complaints started "[p]robably three to four years after he went back," which she agreed would have been around the year 2000 or 2001. She recalled that in approximately 2000 or 2001 plaintiff would take breaks from doing yard work because "his knees would be hurting him so bad." Plaintiff, however, never missed work due to knee problems.

¶ 15 Sarah Bolden recalled that around 2006, plaintiff's complaints "got much worse." Plaintiff "would come home more frequently complaining with his knees." Plaintiff sought medical treatment because "[i]t just got so unbearable at that point that he couldn't stand it anymore." Defense counsel asked her if plaintiff knew what caused his knee pain in 2006, and she responded that plaintiff "didn't know at that point." Defense counsel later asked her whether plaintiff "now ha[s] an opinion as to what caused his knee problems" to which she responded plaintiff thought it was from "walking in the train yard, having to walk up and down those tracks on that ballast and stuff." According to Sarah Bolden, plaintiff planned on working at the railroad another 20 years until he was 68.

¶ 16 In response to defendant's motion for summary judgment, plaintiff argued that he did have occasional, intermittent pain in his knees and body during the time he worked for

defendant, but that his knee pain only became severe enough to concern him in late 2006 and early 2007. Plaintiff attached affidavits from Dr. Michael Brewer and Dr. Forbes McMullin.[3] Dr. Brewer attested that he was plaintiff's primary care physician from 2004 through 2007 and attached copies of his chart notes from plaintiff's visits. Dr. Brewer testified that on April 13, 2007, plaintiff complained to him for the first time that he had pain in his right knee. Dr. Brewer stated that plaintiff told him that his right knee pain came on during the few days prior to his visit and became very painful. Regarding plaintiff's left knee, Dr. Brewer stated that plaintiff did not complain to him of any pain. Dr. Brewer concluded that plaintiff did not complain to him of any knee pain prior to April 13, 2007. Dr. Brewer's notes, as attached to his affidavit, state that on April 13, 2007, plaintiff came into the office "with pain in the right knee that just came on over the last few days. Knows of no specific injury, but it started swelling and has become very painful."

¶ 17 Dr. McMullin, plaintiff's orthopedic surgeon, attested that he examined plaintiff on May 16, 2007. Dr. McMullin stated "I took history from [plaintiff] regarding why he presented to my office and learned that he had experienced intermittent bilateral knee pain in the 1990's and 2000's." Dr. McMullin stated that plaintiff's "knee pain became significantly more severe within several weeks of his May 16, 2007 visit to my office." Dr. McMullin believed his diagnosis of "bilateral moderate to severe osteoarthritis, right worse than left" was an original diagnosis of plaintiff's condition. Dr. McMullin told plaintiff that he "believed his bilateral knee osteoarthritis caused or contributed to by cumulative trauma associated with his work

[3] Plaintiff also attached his deposition testimony and his wife's deposition testimony. Defendant later filed a motion to strike both Dr. Brewer's and Dr. McMullin's affidavits. There is no order in the record resolving defendant's motion to strike, but the circuit court found in its order granting summary judgment in defendant's favor that neither affidavit raised a question of fact regarding plaintiff's awareness of his injury.

activities working for the railroad." A copy of Dr. McMullin's initial medical report from plaintiff's May 16, 2007, visit was attached to Dr. McMullin's affidavit. Relevant here, under the title "History of Present Illness," the report provides that plaintiff "states that there is no one definite history of injury, but has had accumulative trauma to the knees jumping up and down off cars and has worked in the yard on a regular basis ." The report later provides, under that same section, that "[t]he pain has been bothering [plaintiff] for the past ten to fifteen years."

¶ 18 In reply, defendant argued that plaintiff's testimony unequivocally shows plaintiff knew that his railroad work caused him pain in his knees for 10 or 15 years prior to filing the lawsuit in this case. Defendant also argued that plaintiff's wife testified that plaintiff began complaining about his knees immediately upon his return to work at the railroad in 1997. Accordingly, defendant maintained that plaintiff's cause of action was barred by FELA's three-year statute of limitations.

¶ 19 On October 21, 2013, the circuit court granted defendant's motion for summary judgment. The court found that both plaintiff and Sarah Bolden testified that plaintiff had been experiencing knee pain from the time he returned to work at the railroad in 1997. The court found that plaintiff's and Sarah Bolden's depositions show that plaintiff believed that his pain was caused by his work but that plaintiff failed to investigate the pain. Accordingly, the court found that plaintiff was aware, or should have been aware, that his knee injury was caused by his work with defendant more than three years before filing the case at bar. Furthermore, the court found that plaintiff's affidavits from Drs. Brewer and McMullin did not raise an issue of fact.

¶ 20 On November 8, plaintiff timely appealed.

¶ 21 ANALYSIS

¶ 22 Plaintiff argues before this court that the circuit court erred in granting defendant's motion for summary judgment because his cause of action did not accrue until 2006, within the time frame permitted by the statute of limitations. Plaintiff characterizes his 2006 injury as a separate and distinct injury causing him severe pain forcing him to stop work as opposed to the intermittent and occasional knee problems he experienced prior to 2006. Plaintiff points out that he did not miss any work from his prior intermittent and occasional knee problems and had hoped to work until his retirement.

¶ 23 Defendant argues that plaintiff's claims accrued prior to April 4, 2005, the relevant date his injuries had to accrue after for statute of limitations purposes. In support, defendant points out that plaintiff's and his wife's depositions establish that plaintiff knew or should have known that his injuries were caused by his railroad work prior to April 4, 2005. Defendant also points out that plaintiff confirmed Dr. McMullin's 2007 report which stated that plaintiff's knees had been bothering him for the past ten or fifteen years, a time frame well outside the statute of limitations here.

¶ 24 Summary judgment is proper where "the pleadings, depositions, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." 735 ILCS 5/2-1005(c) (West 2012). "Summary judgment is to be encouraged in the interest of prompt disposition of lawsuits, but as a drastic measure it should be allowed only when a moving party's right to it is clear and free from doubt." *Pyne v. Witmer*, 129 Ill. 2d 351, 358 (1989). At this stage of the proceedings, a plaintiff is not required to prove their case. *Thompson v. Gordon*, 241 Ill. 2d 428, 438 (2011). The nonmoving party must, however, present some factual basis that would arguably entitle it to a judgment. *Allegro Services, Ltd. v. Metropolitan Pier & Exposition*

Authority, 172 Ill. 2d 243, 256 (1996). In ruling on a motion for summary judgment, the circuit court is to determine whether a genuine issue of material fact exists, not try a question of fact. *Williams v. Manchester*, 228 Ill. 2d 404, 417 (2008). "A triable issue precluding summary judgment exists where the material facts are disputed or where, the material facts being undisputed, reasonable persons might draw different inferences from the undisputed facts." *Id.* Pleadings are to be liberally construed in favor of the nonmoving party. *Id.* We review summary judgment rulings *de novo*. *Rush University Medical Center v. Sessions*, 2012 IL 112906, ¶ 15.

¶ 25 FELA provides injured railroad workers with a cause of action against their employer's for their employer's negligent acts. 45 U.S.C. § 51 (2006). "Cognizant of the physical dangers of railroading that resulted in the death or maiming of thousands of workers every year, Congress crafted a federal remedy that shifted part of the 'human overhead' of doing business from employees to their employers." *Consolidated R. Corp. v. Gottshall*, 512 U.S. 532, 542 (1994) (quoting *Tiller v. Atlantic Coast Line R. Co.*, 318 U.S. 54, 58 (1943). Accordingly, "FELA is meant to provide a broad remedial framework for railroad workers and, in light of that purpose, is to be liberally construed in their favor." *Lisek v. Norfolk & Western Ry. Co.*, 30 F. 3d 823, 831 (7th Cir. 1994).

¶ 26 A cause of action under FELA, however, must be filed within three years of the date the cause of action accrued. 45 U.S.C. § 56 (2006). In latent injury situations, where an injury developed through repetitive trauma over the course of time, the discovery rule avoids the technical application of the statute of limitations. *Axe v. Norfolk Southern Ry. Co.*, 2012 IL App (5th) 110277, ¶ 11. Under the rule, a cause of action "accrues for statute of limitations purposes when a reasonable person knows, or in the exercise of reasonable diligence should have

known of both the injury and its governing cause." *Green v. CSX Transportation, Inc.*, 414 F. 3d 758, 763 (7th Cir. 2005); see also *Fries v. Chicago & Northwestern Transportation Co.*, 909 F. 2d 1092, 1094 (7th Cir. 1990) ("Accrual is defined in terms of two components, the injury and its cause, for statute of limitations purposes."). "Both components require an objective inquiry into when the plaintiff knew or should have known, in the exercise of reasonable diligence, the essential facts of injury and cause." *Fries*, 909 F. 2d at 1095.

¶ 27 Plaintiff filed his complaint in this matter on April 4, 2008. Under FELA's statute of limitations, plaintiff's cause of action must have accrued after April 4, 2005, to be considered timely filed. 45 U.S.C. § 56 (2006). Summary judgment in defendant's favor, therefore, is proper in this matter if no genuine issue of material fact exists disputing that plaintiff's cause of action accrued prior to April 4, 2005. *Fries*, 909 F. 2d at 1094 ("Further, in order to affirm we must find (1) that the statute of limitations has run and (2) there exists no genuine issue of material fact as to when the plaintiff's cause of action accrued."). Under the discovery rule, summary judgment in defendant's favor is proper in this matter if there is no genuine issue of material fact that plaintiff knew, or should have known, of both his injury and the governing cause of his injury prior to April 4, 2005. *Green*, 414 F. 3d at 763. It follows that an issue of material fact addressing either plaintiff's knowledge of his injury or its governing cause would defeat defendant's summary judgment motion. After reviewing the evidence here in the light most favorable to plaintiff, the nonmovant, we hold the evidence presented raised issues of material fact regarding whether plaintiff's injury accrued prior to April 4, 2005. Specifically, the evidence is conflicting as to whether plaintiff knew or should have known of his injury prior to April 4, 2005.

¶ 28 The parties here each rely on the deposition testimony of plaintiff and his wife, Sarah Bolden. Their deposition testimony, however, conflicts with each other regarding when plaintiff knew or should have known of his injury. Plaintiff testified at the beginning of his deposition that the pain in his knees started in December of 2006, well within the statute of limitations. Defense counsel then confronted plaintiff with Dr. McMullin's 2007 medical record that stated "[t]he pain has been bothering [plaintiff] for 10 to 15 years," a time frame outside of the statute of limitations. Defense counsel repeatedly asked plaintiff if Dr. McMullin's statement was accurate, to which plaintiff responded in several different ways, as follows: "I've had pain in my knee;" "[t]hat is the statement he made;" "I guess;" "I did not tell him that my pain was from the past 10 or 15 years;" "I did not tell a specific timeline when the pain was bothering me;" and, eventually, "I guess, yes." Later, in response to his own counsel's questions addressing Dr. McMullin's report, plaintiff characterized any pains he had in the 10 or 15 years before Dr. McMullin's report as "fatigue pains" that were not "constant and severe." He described the pains as the product of "a strenuous day's work" and reiterated that it was not until 2007 that he realized that his knee condition was severe. Although plaintiff's intermittent "fatigue" pains occurred outside the statute of limitations, we are not prepared to charge him with knowledge of his future pain based on pains he characterized as normal pains associated with working a strenuous job. *Green*, 414 F. 3d at 764 ("It is not the law that if you are scratched as a result of someone's negligence or other tort you must sue, even though the scratch is trivial, against the possibility that it might develop into something serious after the period of limitations has run."). Therefore, plaintiff's deposition testimony supports the inference that plaintiff had knowledge of his knee pain in 2006 when he began experiencing extreme pain and that any pains prior to that time were intermittent pains caused by fatigue.

Accordingly, based on plaintiff's deposition, his 2006 knowledge of his knee pain is well within the statute of limitations.

¶ 29 Sarah Bolden's deposition testimony, on the other hand, supports the inference that plaintiff had knowledge of his injuries outside the statute of limitations. Specifically, she testified that around 2000 or 2001 plaintiff would take breaks from doing yard work because "his knees would be hurting him so bad." She testified that he would complain about his knees upon his return home from work and that on "most days, he would grab Tylenol or the Aleve and start taking them regularly." Sarah Bolden's testimony that defendant suffered serious knee pain in 2000 or 2001 supports the inference that plaintiff knew or should have known of his knee injury prior to April 4, 2005. Accordingly, her testimony provides evidence that plaintiff knew of his injuries outside of the statute of limitations.

¶ 30 A comparison of the above deposition testimonies shows that a disputed issue of material fact remains as to whether plaintiff had knowledge of his injury outside of the statute of limitations, *i.e.*, prior to April 4, 2005. Plaintiff's testimony supports the inference that he first had knowledge of his knee injury within the statute of limitations, in 2006, albeit with the existence of intermittent "fatigue" pains prior to that time. Sarah Bolden's testimony that plaintiff had serious knee pain in 2000 or 2001, a time outside of the statute of limitations, supports the opposite conclusion. Summary judgment should only be granted "when a moving party's right to it is clear and free from doubt." *Pyne*, 129 Ill. 2d at 358. After reviewing the evidence liberally in plaintiff's favor, we cannot say that defendant's right to summary judgment based on FELA's statute of limitations is clear and free from doubt where genuine issues of material fact remain as to whether plaintiff had knowledge of his injury within FELA's statute of limitations. Due to the existence of material fact concerning whether plaintiff had knowledge

of his injury outside of the statute of limitations, we need not address whether plaintiff also had knowledge of the cause of his injury outside the statute of limitations. *Fries*, 909 F. 2d at 1094 ("Accrual is defined in terms of two components, the injury and its cause, for statute of limitations purposes."). Therefore, the circuit court erred when it granted summary judgment in defendant's favor.

¶ 31 CONCLUSION

¶ 32 The judgment of the circuit court of Cook County is reversed, and the cause remanded.

¶ 33 Reversed and remanded.