

**SEAFORD ET AL., APPELLEES, v. NORFOLK SOUTHERN  
RAILWAY COMPANY, APPELLANT.**

[Cite as *Seaford v. Norfolk S. Ry. Co.*, 106 Ohio St.3d 430, 2005-Ohio-5407.]

*Federal Employers' Liability Act — Damages — Pro tanto credit — Court of  
appeals' judgment reversed in part on the authority of Hess v. Norfolk S.  
Ry. Co. and cause remanded.*

(No. 2005-0172 — Submitted August 23, 2005 — Decided October 26, 2005.)

APPEAL from the Court of Appeals for Cuyahoga County,  
No. 83137, 2004-Ohio-6849.

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{¶ 1} The judgment of the court of appeals on the issue raised in  
appellant's Proposition of Law No. IV is reversed on the authority of *Hess v.  
Norfolk S. Ry. Co.*, 106 Ohio St.3d 389, 2005-Ohio-5408, \_\_\_ N.E.2d \_\_\_, and  
the cause is remanded to the trial court for application of *Hess*.

RESNICK, PFEIFER, LUNDBERG STRATTON, O'CONNOR and O'DONNELL,  
JJ., concur.

MOYER, C.J., and LANZINGER, J., dissent.

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Brent Coon & Associates, Christopher J. Hickey, and Mary Brigid  
Sweeney; Kevin E. McDermott, for appellees.

Gallagher, Sharp, Fulton & Norman, Kevin C. Alexandersen, Monica A.  
Sansalone, and Holly M. Olarczuk-Smith, for appellant.

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