

February 21, 2000

Trial Report

Man Was Killed In Railroad Crossing Accident Daughter Said Crossing Was 90 Percent 'Sight-Obstructed'

\$1.9 Million Settlement

The plaintiffs were family members of a 22-year-old man who was killed in a railroad crossing accident. They sued Union Pacific and Amtrak.

The accident happened on April 22, 1997. The man was traveling north on County Road NE501 in Johnson County when his pickup truck was struck by a high-speed Amtrak train at an uncontrolled rural grade crossing just south of Highway 50 near Warrensburg.

The plaintiffs claimed that Union Pacific, which owned the crossing, failed to keep it reasonably safe. They argued that Union Pacific knew the crossing was dangerous but failed to warn the public or change the operation of trains operating there. They said the only warning device at the crossing consisted of faded crossbucks, and that Union Pacific had received a recommendation seven months earlier that lights and gates were needed as a result of a 90 percent sight-distance obstruction. The evidence showed that Amtrak trains routinely ran 70 mph around a nearby curve where both the curve and the terrain obstructed motorists' view, and that motorists traveling north had less than three seconds' visual notice of approaching trains.

Local residents testified that the crossing was dangerous, and employees of a nearby concrete plant testified they had informed Union Pacific about near-misses between the trains and trucks from the factory.

As for Amtrak's liability, the plaintiffs said the train that hit the man was a European-manufactured "Flexliner" passenger train on a demonstration tour of the United States. They said the train had limited sight lines and was not intended to be run on tracks with unprotected crossings. In addition, they said the emergency brake lever could not easily be reached by the engineer from the operator's seat and that the engineers were not instructed on the proper operation of the Flexliner on Missouri tracks, where many of the crossings have no lights or gates.

* * *

Type of Action: Wrongful death

Type of Injuries: Death

Court/Case Number/Date: U.S. District Court, Western District of Missouri/98-0144-CV-W-BD/Feb. 21, 2000

Caption: *Blue, et al. v. Union Pacific Railroad Co., et al.*

Judge, Jury, or ADR: N/A

Name of Judge: Sarah W. Hayes

Special Damages Claimed: \$186,130 future services

Verdict or Settlement: \$1.9 million settlement

Allocation of Fault: N/A

Last Offer: N/A

Last Demand: N/A

Attorney for Plaintiffs: Thomas C. Jones, Law Office of Lantz Welch, Kansas City

Insurance Carrier: Self-insured

Plaintiffs' Experts: Bernard Abrams, Columbus, Ohio (human factors); Kenneth Heathington, Knoxville, Tenn. (transportation engineer); David Lipscomb, Standford, Wash. (audiologist); James Scott, Kingsport, Tenn. (train operations); John O. Ward, Kansas City (economist)

Defendants' Experts: Frank Landy, Boulder, Colo. (human factors); Jay Pfeiffer, Wichita, Kan. (mechanical engineer); Gary Wolf, Atlanta, Ga. (train operations)

Lawyers Weekly, Inc., 41 West Street, Boston, Massachusetts, 02111, (800) 444-5297

© 2000 Lawyers Weekly Inc., All Rights Reserved.